

**Review of the Operation
of the
Freedom of Information (Amendment) Act 2003**

An investigation by the Information Commissioner

into the effects of the Amendment Act and

the introduction of fees on access requests

by members of the public

June 2004

This is a report of an investigation which I carried out in accordance with section 36 of the Freedom of Information Acts, 1997 and 2003 (the Act) into the practices and procedures adopted by public bodies for the purposes of compliance with the provisions of that Act and of enabling persons to exercise the rights conferred by the Act.

In particular, the report focuses on the effects of the Amendment Act and the introduction of fees on access requests by members of the public.

In accordance with section 36(5) of the Act, I am furnishing a copy of this report to the Minister for Finance and to each public body. A copy is also appended to my Annual Report 2003, which, in accordance with normal practice will be laid before each House of the Oireachtas.

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Information Commissioner

June 2004

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Overview and Summary of Recommendations

Introduction

The Freedom of Information Act, 1997 was amended in April, 2003. The amendments introduced provisions:

- to extend the time-limits on access to Cabinet documents to ten years
- to extend protection of Government records to include selected workings of civil servants
- to allow the issue of non-appealable certificates to the effect that a record is part of the deliberative process
- to afford greater protection of records concerned with security, defence and international relations
- to provide for the introduction of application fees for original requests, internal review and independent review by the Information Commissioner.

On 1 July, 2003 the Minister for Finance set the fee amounts to be charged: €15 for original request, €75 for internal review and €150 for review by the Information Commissioner. The Minister made provision for discounts to be granted to holders of medical cards or their dependants. The fees came into effect on 7 July, 2003.

I describe the background to these developments in more detail in Chapter One.

At that time there was considerable political, public and media concern that the changes would alter and undermine the purpose and operation of the Act. Fewer records would be released; public body staff might regard the fees as a means of deterring all but the most persistent of requesters from using their access rights to the full. It was also feared that the public would be inhibited, on the grounds of cost, from pursuing their rights of appeal when their FOI requests were refused. Clearly, if those predictions were to prove accurate, then the principles that underlie the Act, eloquently set out in its Long Title, would have been devalued.

As provided for in section 36 of the Freedom of Information Act, I undertook an investigation to establish the impact of these changes on the operation of the Act. Descriptions of what I found are outlined in Chapters Three and Four. A description of the investigation methodology is on my Office website at www.oic.ie.

In addition, I looked at the experiences of overseas jurisdictions both in terms of amendments to the primary legislation and the processes involved with regard to their charging regimes. A description of what I found is outlined in Chapter Two.

Overall Findings

Arising from my investigation, the impact of the changes can be summarised as follows:

- 1) overall usage of the Act has fallen by over 50% while requests for non-personal information has declined by 75%,
- 2) the media, a key element of an open and properly functioning democracy, are now less likely to use the Act. Usage by journalists declined steadily throughout 2003. Between the

first quarter of 2003 and the first quarter of 2004 the number of requests fell by 83% and still continues to decline,

3) other users of the Act, individuals and representative bodies, use the Act far less than before to access information on decisions that affect them directly or indirectly,

4) business requests to all bodies declined by 28% over the two years and fell by 53% between the first quarter of 2003 and the first quarter of 2004, and

5) despite the changes, public bodies appear to operate the Act in a fair and balanced manner. Subject to some caveats, there is no evidence to suggest that the amendment of the Act or the introduction of "up front" fees has altered their behaviour in this respect.

Although I was aware of anecdotal evidence of very high search and retrieval fees being sought in some cases, I found that, among the public bodies sampled, search and retrieval fees were rarely sought. In 2002 and 2003 such fees were requested in just over 6% of cases where fees could have been charged.

I found that, of similar jurisdictions, Ireland was almost unique in charging review and appeal fees. I also found that Ireland's approach to search and retrieval is broadly in line with overseas countries, most of which seem to adopt a discretionary as opposed to mandatory approach to the charging and collection of such fees.

Summary of Conclusions and Recommendations

Based on my findings, I make a number of recommendations, which, I believe will improve the operation of the Act:

- Given the impact of the introduction of application fees on usage of the Act I *recommend that the policy of charging up-front fees at internal review stage and for application to the Information Commissioner's Office be considered in the context of any future review of the Act.*
- Mindful that some requesters may have been dissuaded from making requests by the amendments to the Act I *recommend that they think again and pursue their access rights in this regard.*
- Given the low take up of the waiver provisions in relation to upfront fees and the apparent requirement to make requesters aware of the methods available to keep request costs at a minimum I *recommend that the Department of Finance provide detailed information to the public on the operation of the fees regulations.*
- In those instances where the requester has agreed to accept fewer records than originally requested (i.e. the case is settled) I believe that these requests have the same status as those withdrawn and, as such, any application fees paid should be refunded. I *recommend that the Central Policy Unit ensure that public bodies follow a consistent approach to the charging of fees for requests and internal reviews which have been withdrawn.*
- I am aware that voluminous requests can attract a substantial search and retrieval fee. This fee can be reduced where the requester is assisted by the public body in focusing more clearly on the records required. I *recommend that all public bodies be mindful of their obligations under the Act when presented with requests that would attract significant search and retrieval fees.*

- I believe that appeal fees should be refunded where previous decisions have been reversed and *I recommend that the Department of Finance reconsider its policy of charging fees in these circumstances.*
- Given the impact of fees on the number of requests being submitted *I recommend that all public bodies review their policies to ensure that as many requests as possible are dealt with outside FOI.*
- I believe that members of the media can do more to optimise the operation of the Act from their perspective and *I recommend that journalists and their employers should explore further their strategies in this regard.*
- Given my findings in relation to shortfalls in the decision-making process *I recommend that all public bodies review and improve their processes in this regard.*
- Mindful that the Act is in operation for over six years, it is my belief that progress to date across public bodies in the design and implementation of records management policies has been unsatisfactory. *I recommend that the Minister for Finance use his powers under section 15(5) of the FOI Act to put in place measures to ensure that records management policies and systems operate at an optimal level to meet the requirements of the Act.*
- I believe that aspects of the proposed United Kingdom/Scottish approach to charges have much to commend it and *I recommend that the operation of this model be reviewed in the context of any future review of the Act.*
- Given the approach of some overseas jurisdictions to the charging of fees in relation to particular types of requests by Members of Parliament *I recommend that the fees chargeable to members of the Oireachtas be considered in the context of any future review.*
- Mindful of differing overseas policies in relation to charging for requests from members of the media *I recommend that this issue be considered in the context of any future review.*
- Public bodies have discretion under the Act to waive fees in relation to records which would be of particular assistance to the understanding of an issue of national importance. Based on experience abroad, this test should be simplified to allow a waiver where the request is in the public interest or of benefit to the public at large and *I recommend that this issue be considered in the context of any future review.*

My findings, conclusions and recommendations are outlined in detail in Chapter Five.

In concluding, I would like to thank the people who contributed to the production of this Report: Dr. Mark Morgan, Head of Education in St. Patrick's College, Drumcondra for his assistance in designing the methodology, my overseas colleagues who kindly gave of their time to provide me with material for Chapter Two, and Liam Kelly, Elizabeth Martin and other members of my staff involved in carrying out the investigation. I would also like to express my appreciation of the courteous and prompt assistance provided by the Liaison Officers of the public bodies.

CHAPTER ONE

Background to the Amendment of the Freedom of Information Act, 1997 and the Introduction of Fees

The Freedom of Information Act

The Freedom of Information (FOI) Act (the Act) was passed in April, 1997 and came into effect on 21 April, 1998. The broad purpose of the Act is to confer rights on members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy. The Act has been extended by regulation to a whole range of public bodies as well as private bodies to the extent that they perform public statutory functions. To date, the Act has been extended to a total of almost 400 bodies.

Report of High Level Group of Secretaries General

A High Level Review Group of Secretaries General ("the Group") was established by Government on 25 June 2002 to review the operation of the Act. In its report, the Group described its terms of reference as considering "in the light of experience gained in the four years since the FOI Act 1997 came into effect:

- issues in relation to how exemptions provided for in the Act have been applied;
- the extent to which the public interest has been served in practice by the operation and provisions of the Act; and
- the appropriate balance between promoting transparency in the decision-making process and preserving the effectiveness of that process."

The Group made a total of 15 recommendations including:

- eight proposed legislative amendments to sections 19, 20 and 24 of the Act,
- the inclusion in any legislative amendments of primarily technical amendments suggested by the Civil Service Users Network in its 1999 review of the operation of the Act,
- the inclusion in any legislative amendments of amendments which were being considered by the Central Policy Unit of the Department of Finance based on its experience of the operation of the Act, and
- the introduction of an up-front fee for FOI requests and consideration of a fee for reviews.

The key recommendations in terms of access to information centred on amendments to sections 19, 20 and 24 and the introduction of application fees.

Section 19

Prior to its amendment, section 19 of the FOI Act was a discretionary exemption which provided for the protection of certain records relating to meetings of the Government. The key recommendations in this respect were:

- Change of the exemption from discretionary to mandatory.
- The amendment of section 19(1) to ensure that records created for the purpose of use at Cabinet meetings are protected even if they are applied for other purposes.
- Provide for the exemption of records of expert or working groups (of officials) set up to

assist Cabinet deliberations on any matter which has been submitted to Cabinet - such a group to be certified by the Secretary General to the Government for FOI purposes.

- Provide for the exemption of communications between Ministers where they relate to a matter already on the Cabinet agenda or on which a submission to Cabinet is imminent or they relate to a matter which has been delegated by Cabinet for resolution between Ministers.
- Extend the period of protection for Cabinet records from five to ten years.

Section 20

Prior to its amendment, section 20 of the Act constituted a discretionary exemption which provided for the protection of certain records relating to the deliberative processes of public bodies subject to the consideration of whether the grant of the request would be contrary to the public interest by reason of the fact that the requester would become aware of a significant decision the body proposed to make. The Group recommended that the public interest test be re-balanced to require that records be released where the public interest would be better served by granting than by refusing to grant the request.

Section 24

Prior to its amendment, section 24 of the Act constituted a discretionary exemption which provided for the protection of certain records whose disclosure could reasonably be expected to affect adversely the security, defence or international relations of the State or matters relating to Northern Ireland. The Group recommended that consideration of alternative/additional measures be brought forward which would provide an enhanced degree of protection (including the possibility of exemption) to communications in the conduct of international relations.

Introduction of Fees

The Group reported that the arrangements as they existed at the time in relation to the charging of fees had not worked in practice with fees being charged in only a very small proportion of cases. It recommended that an up-front fee be introduced for FOI requests and that consideration be given to the introduction of fees for reviews.

Freedom of Information (Amendment) Bill 2003

My predecessor, Kevin Murphy, first became aware that a Bill to amend the Act was due to be published early in February, 2003 following the publication of the Government's proposed legislative programme. He was not part of the High Level Group nor had my Office been consulted in relation to possible amendments to the Act. My Office asked the Department of Finance whether it would be consulted on the proposed Amendment Bill and indicated that the Commissioner had a series of suggestions relating to the amendment of the Act arising from his work over the previous five years in deciding FOI reviews. At the Department's request, a list of suggested amendments were forwarded to the Department for consideration on 5 February 2003. The Freedom of Information (Amendment) Bill 2003 (the Bill) was subsequently published on 28 February 2003.

It is noteworthy that the proposed amendments in the Bill to sections 19, 20, and 24 went further than those suggested by the Group. For example, the proposed amendment to section 19 provided that the extension of the period of protection for Cabinet records from five to ten

years would also apply to certain Ministerial communications. Furthermore, the proposed amendment to section 20 provided for the mandatory protection of records relating to the deliberative process of a public body where a Secretary General has issued a certificate stating that the record contains matter relating to the deliberative processes of a Government Department. As for section 24, the proposed amendment provided for the mandatory exemption of certain classes of records regardless of whether their release could possibly have affected adversely the international relations of the State.

Commentary

On 11 March, 2003 having used his powers under section 39 of the Act, Kevin Murphy published a commentary on the application and operation of certain provisions of the Act which were proposed for amendment. In the Commentary, he reported on how some of the more significant decisions which he had made since April 1998 would be affected or reduced in scope had the proposed amendments been operating from the outset. Specifically, he expressed his concerns about the way in which two particular proposed amendments involving section 19 (Meetings of Government) and section 20 (Deliberations of Public Bodies), were structured in the Bill

With only some minor amendments to the original proposals, the Freedom of Information (Amendment) Bill 2003, as passed by both Houses of the Oireachtas, was signed into law on 11 April 2003 with effect from that date.

The Freedom of Information Act 1997 (Fees) Regulations 2003

The FOI Amendment Act 2003 provided for the charging of an amount as may be prescribed in respect of certain requests made under the Act and subsequent applications for review. On 30 June 2003, the Minister for Finance made the Freedom of Information Act 1997 (Fees) Regulations (S.I. No. 264 of 2003) with a commencement date of 7 July, 2003. The Regulations provided for the charging of a fee of varying amounts for certain FOI requests, applications for internal review and applications for review by the Information Commissioner. The Regulations made provision for charges to be levied as follows:

	<u>Cost</u>	<u>Reduced Cost*</u>
Request	€15	€10
Internal Review	€75	€25
Information Commissioner	€150	€50

* medical card holders and dependants

The position relating to the charging of fees for search and retrieval of records remained unchanged.

CHAPTER TWO

The Overseas Experience in Imposing Fees and Reviewing FOI Legislation

Introduction

Speaking in the Seanad on 4 March 2003, when introducing the Amendment Bill, the Minister for Finance said that

"... the original Act clearly states that a (search and retrieval) fee must be charged for an FOI request unless the request is for personal information or in cases where exceptional circumstances apply. In practice the opposite has been happening with charges being the exception rather than the rule.....The difficulty is that the fees have not always been charged. The true cost of FOI is not recognised. The Bill, therefore, contains a provision that will permit the Minister for Finance to prescribe fees for access to records and for application for review of decisions which must be paid before anything else happens".

On 30 June, 2003 just before the Summer recess, the Minister for Finance said that "a substantial number of users of the FOI Act will be either unaffected or will qualify for a reduced fee...(and that) as approximately one-third of the population is covered by a medical card, a substantial portion of FOI requests for non-personal information can be expected to qualify for a reduced fee".

The Report of the High Level Review Group of Secretaries General found that search and retrieval fees were charged only in a very small proportion of cases. It went on to say that "an up front fee is the only workable arrangement in which fees can be levied". While escaping comment at the time, the Group seemed to be suggesting that application and appeal fees were to be the sole charges required of requesters as opposed to a combination of these "up front" charges and search and retrieval fees as is now provided for by the amended Act.

This Chapter compares current Irish fees, charges and collection practices with those of other jurisdictions that have legislation broadly similar to our own, i.e. right of access, onus on public bodies to justify decision and right of independent review. It also looks at the process and outcomes of reviews of FOI legislation that have taken place in some of these jurisdictions.

Fees

As their jurisdictions are similar to Ireland in terms of legal systems, generally, and FOI legislation in particular, the charging regimes were examined in New Zealand, Queensland Western Australia, British Columbia and Ontario. I also examined the proposed charges which may apply in Scotland and the rest of the United Kingdom. While similar approaches are adopted in many respects, there are divergences; some have search and retrieval fees alone while others, like Ireland, have a combination of application fees and search and retrieval fees.

The table overleaf illustrates the range of approaches adopted (prices are in Euro).

Fees Chargeable (Euro equivalents) - Ireland and Abroad

	New Zealand	Queensland	Western Australia	British Colombia	Ontario	Scotland	Rest of UK	Ireland
Application Fee	None	20.80	18.00	None	3.10	None	None	15.00
Internal Rev. Fee	None	None	None	None	None	None	None	75.00
OIC Appeal Fee	None	None	None	None	6.20 pers 15.60 n-pers	None	None	150.00

Processing/ Supervision+	38.15* (1 hour free)	12.40	18.00 **	18.60 3 hours free	18.60 (pers/n-pers)	10% of cost to max of 74.63^	10% of cost to max of 82.08^^	None
Search and Retrieval+	38.15* (1 hour free)	12.40 (if >2 hours)	None	18.80 3 hours free	18.60 (pers/n-pers)	10% of cost to max of 74.63^	10% of cost to max of 82.08^^	20.95
Photo-copy (A4 Sheet)	0.11 first 20 free	0.12	0.12	0.16	0.12	Undecided	Undecided	0.04
Copying Different Media	Actual Cost Incurred	Actual Cost Incurred	Actual Cost Incurred	Actual Cost Incurred	Actual Cost Incurred	Undecided	Undecided	0.51 - 10.16
Post and Packaging	None	None	Cost Incurred	Cost Incurred	None	Undecided	Undecided	None

Waiver Scheme	At discretion of public body	S&R fees at discretion of public body	at least 25% amount at discretion of body	At discretion of public body	At discretion of public body	None (Undecided)	None (Undecided)	Reduced Cost++ Req. €10 App. €25 OIC €50
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Fees Apply Pers/N-Pers	N-personal Only	N-personal Only	N-personal Only	N-personal Only	Pers/N-Pers	Pers/N-Pers (Undecided)	Pers/N-Pers (Undecided)	N-personal Only
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+ Hourly Rate

* Full cost recovery for initial commercial applicant

** Only commences when records found and in hands of decision maker

^ 10% of actual costs to be recovered subject to maximum cost of €895 - first €149 free.

^^ 10% of actual costs to be recovered subject to maximum cost of €820

++ Holders of medical cards or their dependants

Analysis of Charges

Personal/Non-Personal

For the most part, charges apply only to non-personal information across all eight regimes. Of the eight jurisdictions examined only one (Ontario) currently charges search and retrieval fees for personal records. At this stage, it would appear that Scotland and the rest of the United Kingdom (UK) also propose to charge search and retrieval fees for records containing personal information. As the legislation in Scotland and UK will not take effect until 1 January, 2005, the final decision on the charging structure to be applied in these countries has not yet been made.

Application/Appeal Fees

Among the countries studied there is a clear divergence in approach to application and appeal fees. Of the eight regimes examined, four charge a fee for an FOI request. The charges range between €20.80 and €3.10 with Ireland charging €15.00 for non-personal requests.

It is at the internal review and Information Commissioner appeal stages that the disparity

between Ireland's approach and the overseas rates becomes most apparent. Ireland is the only jurisdiction of the eight which charges for an internal review of a decision (€75). Only Ireland and Ontario charge for an application to the Information Commissioner: in the case of Ontario €6.20 and €15.60 for personal and non-personal information, respectively, and €150 for non-personal information in Ireland.

Processing/Supervision

Of the jurisdictions examined, Ireland is alone in not charging for the time spent processing requests (i.e. deciding on what should be released) or for the supervision of the inspection of records to which access has been granted to the requester.

Search and Retrieval

Ireland, at €20.95 is second only to New Zealand (€38.15) in terms of hourly search and retrieval charges. In New Zealand, however, the first hour or part thereof spent on search and retrieval is free.

In Queensland and British Columbia where the hourly charge is €12.40 and €18.80, respectively, the first two hours in Queensland and the first three hours in British Columbia do not attract a fee. Ontario charges €18.60 per hour for search and retrieval while Western Australia does not charge at all.

Photocopying

Of the jurisdictions where copying charges have been decided on, Ireland at 4c per A4 sheet is the cheapest. To put these fees in context, this means that in Ireland a fee of €4.00 would be chargeable for a non-personal request involving 100 pages compared with €16.00 in British Columbia. It should be borne in mind, however, that British Columbia does not charge an application, review or appeal fee and that the first three hours of search and retrieval are free.

Other Media

Ireland's charging regime at 51c to €10.16 also compares favourably in terms of cost. This aspect has little overall impact, however, as the experience of my Office indicates that the vast majority of records are released in A4 paper copy format.

Post and Packaging

Only Western Australia and British Columbia charge for post and packaging

Waiver Allowed

A discount on fees/charges applies in Ireland where the requester is a holder of a medical card (or a dependant). The effect of the discount is to reduce the original request application fee from €15 to €10 while an internal review appeal fee is reduced from €75 to €25 and the fee for an application to the Information Commissioner is reduced from €150 to €50. In the case of search and retrieval fees, the fee is not chargeable where the administrative cost would be greater than the fee collected (a guideline of less than €10 is generally used). In addition, the fee can be reduced if the records concerned would be of particular assistance in understanding a matter of national importance.

Ontario allows up to 100% discount on search and retrieval fees. A waiver is not allowed on the application fee of €3.10. Queensland permits a full waiver of charges in the case of financial hardship. A waiver is not allowed on the application fee of €20.80. While Western Australia prescribes that discounts must be at least 25% of the total charge it also permits a

discretionary full waiver of charges.

Charging Practices

As indicated by the Minister for Finance in the Seanad, he was of the view that the charging of search and retrieval fees had been somewhat erratic up to that time. This investigation and the research undertaken for my predecessor's Compliance Report of 2001 supports the Minister's view that search and retrieval fees had not been charged consistently although some bodies, of late, have begun to charge these fees on a more regular basis.

My investigation has revealed that between January 2002 and December 2003, in a sample of public bodies, search and retrieval fees had been charged in less than 6% of applications for requests relating to non-personal records. I am not in a position to indicate why the frequency of charging is so low but anecdotal evidence would suggest that in many cases, staff of public bodies either have the information readily to hand or feel that releasing the records directly without looking to recover costs is a more efficient and less troublesome way of dealing with the request.

This experience is not unique to Ireland. In Western Australia (which does not charge search and retrieval fees), where the imposition of processing charges is entirely discretionary and not mandatory, many agencies do not impose any charges at all or charge less than they could even where applicants do not qualify for a waiver. This reflects the Western Australia Information Commissioner's view that FOI is not meant to be self-financing, rather that it is a service provided from within existing resources funded by taxpayers. According to her 2003 Annual Report, over 60% of processing/search and retrieval charges were reduced or waived while in 78 out of 125 bodies no processing fee was charged where an application fee had been paid.

In Ontario, a similar pattern emerges: in 2002 (latest figures available) a total of 11,450 of 17,922 requests for general information saw charges additional to the application fees being levied. Of these, for reasons of financial hardship, overestimation of fee or because dissemination would benefit public health or safety, fees were waived in full or in part 35% of the time. In 58% of cases where charges could have been levied they either were not charged at all or were reduced in full or in part.

In Queensland, although there are no detailed figures available in this respect, it is accepted that many more applications take less than two hours than might generally be expected (the first two hours are free) and, as a result, do not incur a fee.

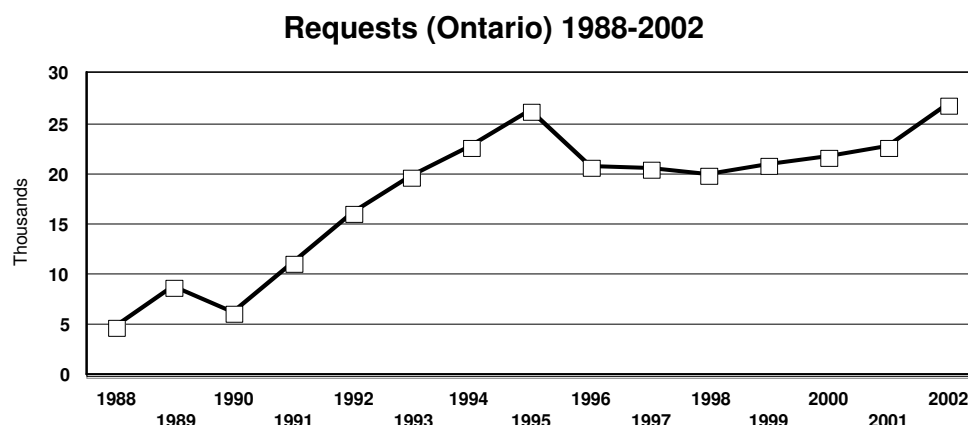
Reviews of FOI and the Impact of the Introduction of Fees - Experience From Abroad

Within the countries studied, there have been many reviews of the operation of FOI regimes, both academic and by way of statutory committee and many Information Commissioners have commented on the impact of the introduction of fees or amendment of their FOI legislation. The following section gives a flavour of the reviews and proposals for change and assessments of change which have occurred in some of the jurisdictions.

Ontario

Ontario's Freedom of Information and Protection of Privacy Act came into effect in 1988. At that time, there were no fees chargeable for an application for access to records or for appeals. In 1996, fees were introduced as part of an overall package of rationalisation measures. As the chart below indicates, the introduction of fees (which are much lower than in Ireland) led

to a fall of over 20% in the number of requests, and reversed an overall trend of increasing FOI requests. Only recently has the number of FOI requests recovered to pre-1996 levels.



Commenting on the effect of fees in her 1998 Annual Report, the Ontario Information Commissioner said that *"The sheer size of the decrease in the number of requests and appeals compels us to question whether the new fees have gone too far, particularly the appeal filing fee"*. In her 1999 Report, she said that high fee charges should never serve as a disincentive to the right of access to information held by the Government and called for a major review of the Government's FOI fee structure. There are no plans, currently, for such a review.

Professor Alasdair Roberts, in his 1999 paper entitled "Retrenchment and Freedom of Information - Recent Experience under Federal, British Columbia and Ontario Law" found that the main effect of the fee increases in Ontario was not a recoupment of costs but rather an avoidance of costs by reducing the volume of requests. He also added that amendments to FOI Acts are usually defended as necessary elements of a strategy to improve efficiency in Government. This found an echo in the Report of the Irish High Level Review Group of Secretaries General which, in its review of the FOI Act, concluded that "in the context of wider Exchequer corrective measures, the rationalisation of the fee regime will also contribute to addressing the cost of the administrative burden of FOI".

Queensland

In November 2001, amendments to the charging regime in Queensland saw processing and inspection charges introduced for the first time while photocopying charges were reduced from 30c to 12c per page. Over the next two years the application fee rose by €1.55 from €18.25 to €20.80.

It is not yet clear whether these changes have had a significant effect.

QUEENSLAND				
YEAR	TOTAL	PERSONAL	NON-PERSONAL	EXTERNAL REVIEW
1998-1999	7,493	3,159	4,334	291
1999-2000	10,444	4,801	5,643	327
2000-2001	10,558	5,436	5,122	376
2001-2002	10,997	5,436	5,561	275
2002-2003	11,111	5,566	5,545	212

In December 2001, The Queensland Legal, Constitutional and Administrative Committee published its review of the Operation of Freedom of Information in Queensland.

It found that the FOI Act had contributed to open and accountable government and enhanced participation by citizens in government in Queensland. Some of the reforms to legislation it recommended included:

- the development of a whole-of-government strategy to promote the greater disclosure of government-held information outside of the FOI Act
- legislative provisions to facilitate a flexible and consultative approach to processing FOI applications
- mechanisms to require agencies and ministers to focus on the harm which might result from disclosure of a document rather than a class of documents to which the relevant document belongs.

In terms of fees, the Committee considered whether fees should be waived where release was in the public interest or of public benefit (e.g. to a community organisation). With regard to specific recommendations the Committee said:

- full cost recovery in terms of voluminous requests is iniquitous and any new Act should not contain such a provision
- fees should not be charged where access is sought to the records of a deceased "close relative"
- there should be no charges for internal or external review.

Victoria

In November 1989, The Victoria Legal, Constitutional and Administrative Committee published its review of the operation of FOI in that State.

While drafted some eight years before the Irish FOI Act some of its terms of reference directed it to cover ground very similar to that discussed in Ireland prior to the introduction of the Amendment Act and fees:

- whether access charges should be related to the cost of that access
- whether Members of Parliament (MPs) should continue to have free access
- whether the Act should provide the power to limit unreasonably voluminous requests
- the extent to which departmental priorities are being affected by FOI requests

The Committee recommended that MPs should continue to qualify for waiver of all charges under the Act. The Committee also recommended that government agencies should only be empowered to refuse to process requests for material which is not exempt under the Act where processing a request would substantially and unreasonably divert agencies away from their other operations.

In 1993 Victoria introduced an application fee of €11.80. While MPs are liable for the application fee they are not charged for time spent on search and retrieval.

Australia

In its 1987 Report on FOI the Australian Standing Committee on Legal and Constitutional Affairs discussed issues which resonate some 17 years later.

It drew attention to the fact that a significant number of requesters who, consistent with FOI principles, could be asked to pay charges were not being notified of such charges.

More specifically, in relation to some of the issues raised in Ireland over the past number of months, the Committee looked at waivers of fees for MPs and journalists.

It recommended that MPs be charged with the exception of:

- requests on behalf of constituents which should be treated as made by the constituent directly
- request for material normally provided in answer to Parliamentary Questions
- request for material which would normally be provided to MPs.

With respect to journalists, it quoted from a submission received from the Attorney General's Office:

"there is not automatic exclusion of journalists (from the charges)we would normally expect journalists to pay because, let us be frank, for the most part they are making requests on behalf of the papers which they represent. I think they may be distinguished from Members of Parliament who do not have commercial organisations behind them"

The Committee did not recommend that specific waiver provisions be put in place for journalists.

United Kingdom/Scotland

While the legislation does not become operative until 1 January, 2005 and the charging regimes have not yet been finalised, aspects of the UK/Scottish charging model deserve closer inspection.

As in the case of Ireland, public authorities are not empowered to charge for any costs associated with determining whether the information is held in the first instance, or any costs associated with considering whether particular exemptions apply.

In terms of search and retrieval the proposed approach in the UK is that only 10% of the actual costs associated with search and retrieval up to a maximum cost of £550 can be charged. While not obliged to deal with the request if it is more expensive than £550, the public body may opt to do so on a full cost recovery basis if it wishes.

The Scottish model favours the requester somewhat more in that the upper limit is £600 and the first £100 is free.

Conclusion

Only three of the seven jurisdictions studied impose an application fee for FOI requests. None charges for internal review and only one (Ontario) charges for an application to the Information Commissioner's Office. And the fees charged in Ontario (€6.20 and €15.60 for personal and non-personal information respectively) are substantially below Ireland's fee of €150 for non-personal information.

The overseas comparisons clearly demonstrate that the structure and scale of up-front fees in Ireland is out of line with practice abroad. In particular, the fee of €150 for applications to the Information Commissioner's Office appears excessive by comparison with practice abroad. I return to this matter in Chapter Five.

CHAPTER THREE

The Effect of Up-front Fees on Usage of the Act

When fees were introduced in July 2003 it seemed to me that their scale would have a significant deterrent effect on users of the Act, particularly in relation to requests for non-personal information.

To establish current trends and usage of the Act I asked the Secretaries General of all Government Departments and the heads of 22 other public bodies (37 in all) (see Appendix 1) to provide me with selected data for each of the months from January, 2002 to March, 2004 inclusive. I chose the data and time-frame in order to analyse how the Act had been operated before and after it was amended in April 2003 and after fees were introduced in July 2003. The information supplied included monthly details of:

- total requests submitted
- type of request (e.g. personal, non-personal)
- type of requester (e.g. journalist, Oireachtas member, business etc.)
- request outcomes (e.g. granted, part-granted, refused etc.)
- number of applications for internal review
- the number of waivers granted for application/appeal fees
- the number of exemption certificates issued.

This Chapter also includes information compiled within my own Office concerning total numbers of applications, fees charged, applications withdrawn etc. A description of the methodology together with the collated data are available on my Office website at www.oic.ie

Analysis and Findings

Public Bodies

Total Requests

While I expected to find a decline in usage of the Act I did not believe that it would be as immediate or as dramatic in scale as proved to be the case: between the first quarter of 2003 and the first quarter of 2004 the total number of requests fell by over 50%. In addition, I found that requests for non-personal information had fallen by 75% over the same period while requests for a mixture of personal and non-personal had fallen by 20%.

Even allowing for a surge in requester activity in the first quarter of 2003, I have found that the amendment of the Act and, perhaps more crucially, the introduction of fees, have had an impact on the operation of the Act far beyond what I believe could have been envisaged either by the authors of the High Level Group Report, the Government or members of the Oireachtas when passing the amendment Bill. The collated data relevant to this Chapter are set out in Appendix III.

Type of Request

Between 2002 and 2003 the total number of requests to the 37 public bodies surveyed rose by 3%. On the face of it, this would appear to follow the established trend (albeit at a much

reduced level) of year-on-year increases in the number of FOI requests submitted to public bodies. Closer inspection, however, reveals that much of the increased activity took place in the first quarter of 2003 which witnessed a surge in requests for

- 1) personal information where requesters or their agents sought records concerning time spent in industrial schools or in educational or healthcare institutions, submissions on which were sought by the *Residential Institutional Redress Board* around that time, and for
- 2) non-personal information, much of which, ironically, was prompted by the Report of the High Level Group and the Government's proposed amendments of the legislation.

When these peaks are discounted, the level of requests for personal information in 2003/2004 appears to be running at 2002 levels while requests for non-personal information fell by two-thirds between the last quarter of 2002 and the last quarter of 2003. In this regard, so great has the reduction been that the total of non-personal requests for the first quarter of 2004 is over 50% less than the lowest quarterly level recorded in the 18 months prior to the introduction of fees.

This decline is even more pronounced within the Civil Service. Between January-March 2003 and the same period in 2004 the number of non-personal requests fell by 75% while between the last quarter of 2002 and the last quarter of 2003 it fell by 70%. Although there is some evidence that this decline has stabilised, total non-personal requests are running at 40% of the levels experienced in 2002.

Requester Type

In analysing this data I have looked at the categories used across all public bodies for statistical purposes: journalist, business, members of the Oireachtas, staff and others.

Journalist

In 2003, among the 37 public bodies surveyed, usage of the Act by members of the media rose by 9% over 2002. The surge in activity in the first quarter of 2003, however, accounted for almost 46% of all requests submitted by journalists in 2003. But between the first quarter of 2003 and the first quarter of 2004 the number of requests from journalists fell by 83% and still continues to decline, falling by a further 31% between the last quarter of 2003 and the first quarter of 2004.

The Civil Service figures are even more alarming: down by 84% between the first quarter of 2003 and the first quarter of 2004 and by a further 46% between the last quarter of 2003 and the first quarter of 2004. Put starkly, this means that journalists submitted only 83 requests to Civil Service Departments over the first three months of 2004 i.e. 28 requests per month or 2 requests per month to each Department. This compares with 92 requests a month during 2002.

I looked at those Departments responsible for guiding much of the policy and spending decisions both in terms of the Government and commercial activity within the State.

I found that the Department of Finance had seen a decline of 90% in journalist requests between the first quarter of 2003 and the first quarter of 2004 and a fall of almost 60% between the last quarter of 2003 and the first quarter of 2004. The net. effect of this is that

between January and March 2004, the Department of Finance was subject to just three requests per month from journalists compared to a range of between 14 to 18 requests a month in the latter half of 2002.

The Department of the Taoiseach and the Department of Enterprise, Trade and Employment witnessed a similar decline over the period and are currently subject to just one request each per month from journalists.

Business

Business requests to all public bodies surveyed declined by 28% between 2002 and 2003 and fell by 53% between the first quarter of 2003 and the first quarter of 2004.

The Department of Enterprise, Trade and Employment, the body charged with the implementation and development of Government policies in the areas of enterprise, employment promotion, trade development, the regulation of businesses and the protection of workers, saw the number of business requests fall by 61% between 2002 and 2003. This translates as a decline from an average of 11 per quarter in 2002 to 4 per quarter in 2003. So significant has been this decline that I do not believe that it can be attributed in full to the activities of the Department's FOI Liaison Unit which tries to handle as many requests for information as possible outside of the Act. There is some sign of a pick-up in activity in 2004 but it is too early to be definitive in this regard.

The Department of Finance witnessed a fall of 83% in business requests between the last quarter of 2002 and the last quarter of 2003 and an overall year-on-year decline of 43%. The number of requests received from this category of requester by the Department of the Taoiseach is insignificant.

Members of the Oireachtas

Among the public bodies surveyed, the total number of requests submitted by members of the Oireachtas in 2003 was some 171% higher in 2003 than in 2002. Again, much of this increase occurred in the six months between January and June 2003. By contrast, the 2003 final quarter figure was 40% lower than the corresponding total in 2002.

Having said that, however, the impact on requests by members of the Oireachtas overall does not appear to have been of the same magnitude as that experienced in other categories. While a decline of 74% occurred between the first quarter of 2003 and 2004 (-79% in the Civil Service), the latest returns for the first quarter of 2004 show requests running at much the same level as that experienced in 2002. It is too early to say if this recovery is permanent or if it is influenced by seasonal or other factors.

Staff

The type of requests submitted under this category tend primarily to be personal requests relating to the personnel records of staff themselves. As such, the amendments to the Act and the introduction of fees did not impact on this category of requester. While there is a small decline in requests between 2002 and 2003 this may be accounted for by increased release outside of FOI of records relating to those requests. In any event, the quarterly figure for end-2003 and start-2004 is only marginally below the quarterly returns for 2002.

Others

This category encompasses requests made by those individuals and groups not covered by the other categories. While the majority of requests in this category relate to personal information many of the requests relate to decisions of public bodies which affect individuals or groups of individuals directly and indirectly. These requests can range from an individual seeking information on waste disposal proposals on adjacent land or requests from local action groups or support groups seeking information on issues that affect their local communities.

The number of "Others" requests fell by 44% between the first quarter of 2003 and the first quarter of 2004. This decline is ongoing as evidenced by a further fall of 5% (-2% in the Civil Service) between the last quarter of 2003 and the first quarter of 2004. The total number of requests for the second half of 2003 was approximately 20% less than for the same period in 2002. This is consistent with the 50% decline in non-personal requests noted earlier. I think it reasonable to assume that this decline is due primarily to a drop in non-personal requests.

In real terms, these figures indicate a fall of over 1,000 in requests between the first quarter of 2003 and the first quarter of 2004. Even if the first quarter of 2003 is discounted as unrepresentative, the difference between the last quarter of 2002 and the first quarter of 2004 means that if the current pattern continues nearly 1,700 fewer such requests will be submitted this year.

Request Outcomes

In analysing outcomes I looked at what happened to a request when dealt with by a public body i.e. whether it was granted in full, part-granted, refused, dealt with outside of FOI, withdrawn or transferred to another public body.

The pattern of outcomes changed over the course of 2003. A greater percentage of requests was granted in full, the percentage of requests part-granted increased slightly while the number of requests being refused declined. This was to be expected as requests involving non-personal information tend to be refused more often than requests involving personal information. As the percentage of non-personal requests declines one would expect a commensurate rise in the percentage of decisions granting full access.

However, among the bodies surveyed, an analysis of how the Civil Service and the wider public service performed in 2003 is illuminating. Although the Civil Service had a higher percentage of personal requests than the public service bodies (probably skewed by requests for information related to institutional care), the Civil Service granted full access in only 35% of all cases - personal and non-personal - (up from 28% in 2002) as opposed to 51% (no change on 2002) in the wider public service. I accept that different types of records can be at issue (e.g. Government records, departmental deliberative process etc.) which require different considerations to be taken into account. I also accept that not all requests relating to institutional care have yet been completed (see my Annual Report 2003). Nonetheless, while requests to the Civil Service which were granted in full did increase to 43% by the last quarter of 2003 the data does prompt the conclusion that the Civil Service applies the Act more rigorously than other public bodies.

One other item of note was the decline in requests being dealt with outside of FOI. In terms

of Outcomes, it fell from 14% to 9% between the first quarter of 2003 and the first quarter of 2004. This decline seems to have begun in the second quarter of 2003 and has continued downwards ever since. This pattern is not quite as pronounced in the Civil Service as compared with other public service bodies which dealt with only 7% of cases outside of FOI in the first quarter of 2004.

Internal Review Applications

As indicated earlier, a charge of €75 was introduced in July 2003 for non-personal internal review applications.

During 2002, the quarterly average of decisions which were appealed to internal review stage for all public bodies was 13.5% (15% for the second half of 2002). In the first quarter of 2004, the percentage of cases appealed to internal review stage was halved to 7%. Within the Civil Service the decline was more pronounced; falling from a 2002 average of almost 15% to 7% by the first quarter of 2004.

Exemption Certificates

Following the amendment of the Act, the possibility exists for certain public bodies to issue certificates under sections 19 and 20 of the Act in addition to section 25 as heretofore. Generally speaking, the issuing of such certificates in relation to a record allows public bodies to refuse access to that record following a request under the FOI Act.

Sections 19(4), 20(1A)(d) and 25(11) of the FOI Act provide that a report specifying the number of such certificates issued, if any, shall be forwarded to the Information Commissioner.

Section 19

Section 19 provides protection for records relating to the Government or Cabinet. Following the amendment of the Act, the definition of Government includes, in certain circumstances, a committee of officials certified by the Secretary General to the Government. Section 19(4) of the Act provides that the Secretary General to the Government shall furnish to the Commissioner a report in writing specifying the number of certificates issued by him or her.

I have been informed by the Secretary General to the Government that no such certificates were issued by him in 2003.

Section 20

Section 20 of the Act exempts from release certain records relating to the deliberative processes of a public body. Section 20(1A)(a) allows for a refusal of a record where a Secretary General of a Department of State has issued a certificate in writing stating that a particular record contains "matter relating to the deliberative processes of a Department of State". Following consultations with each Secretary General I have been informed that no certificates were issued under section 20 in 2003.

Office of the Information Commissioner

Total Review Applications Received

The total number of applications to my Office in 2003 (1119) was distorted by the number of appeals (464) received in relation to the institutional cases referred to earlier (see "Type of

Request" at the beginning of this Chapter). Without discounting these, a fall of 56% occurred between the first quarter of 2003 and the first quarter of 2004. When looking at the last quarter of 2002 (where the surge was not pronounced), the total number of applications received between that period and the last quarter of 2003 fell by 44%.

When these totals are analysed by personal/non-personal/mixed a clearer picture emerges.

Personal

During 2002 the number of "personal" review applications to my Office ranged between 80 and 100 per quarter, rising towards the end of the year as the initial impact of the rise in institutional redress applications received began to be felt. The number of such applications received continued to rise throughout the first half of 2003. However, towards the end of 2003 and into 2004, the number of personal applications to my Office has declined rapidly to approximately two-thirds of the 2002 levels. An analysis of the data for the first quarter of 2002 and 2004 respectively explains this apparent anomaly of declining appeals to this Office in cases where fees do not apply. For the first quarter of 2002, 62 applications were received for personal records relating to education and health-related matters, many of which were concerned with institutional cases. In 2004 there were 38 such cases. As such, the decline in personal applications would appear to be linked primarily to the decline in this class of cases coming to my Office.

Non-personal

The pattern of review applications for non-personal information throughout 2002 and 2003 was more stable, albeit with a "blip" in early July with 61 applications submitted in the week before the fees took effect. The non-personal review application level is currently running at approximately half to one-third of 2002/early-2003 levels.

Mixed

The pattern of mixed applications appears to be unaffected. It is possible, however, that some applicants will alter their request to personal (i.e. by dropping the non-personal aspect) when informed of the requisite fee.

Post-Fee Experience

In looking at my own experience of the operation of the appeal fees, it is instructive to note that 50 "mixed" applications (i.e. a combination of personal and non-personal) were altered to personal only, presumably to avoid payment of the €150 charge. In addition, 14 applications were deemed invalid because no accompanying payment was received. It is clear, therefore, that the introduction of fees has had an immediate impact on requesters' exercise of their overall rights of appeal.

To end-March, 2004 the amount received by my Office in application fees totalled €15,125. My Office's costs to date in setting up the scheme are far in excess of this figure. As such, insofar as my Office is concerned, I find this hard to reconcile with one of the stated aims of the introduction of fees which was that these fees (would) contribute to addressing the administrative cost of the burden of FOI.

CHAPTER FOUR

The Effects of the Amendments to the Act on FOI Culture

Following the amendment of the Act and the introduction of fees, concerns were expressed that, consciously or subconsciously, some public bodies might change their approach to FOI requests. The 1997 Act was acknowledged internationally as one of the best examples of FOI legislation in terms of the balance it struck between openness, protection of privacy and safeguarding the legitimate interests of public bodies and of Government. It heralded the end of the culture of secrecy and was identified as having a key role in modernising the civil and public services.

The Government made it clear that the Act was to be taken seriously and gave expression to this commitment by affording public bodies a twelve month preparatory period before the Act came into force in April 1998. An unprecedented programme of staff training took place with the result that the principles of FOI were embraced positively by civil and public servants.

The Amendment Act of 2003 reduced the degree of openness by limiting or by exempting entirely, access to certain types of records. And requests or appeals relating to non-personal information could not be considered at all unless the requisite fee had been paid.

My concern was that these new restrictions might produce some undesirable secondary effects. In particular, they might lead to an erosion of the positive commitment to FOI among public bodies and might influence individual public servants to take a less constructive approach to the processing of FOI requests. I was also concerned that the high internal review and appeal fees might be used as "filters" to test the resolve of requesters by way of diminished quality of decision-making or failure to issue replies at all.

With this in mind, my staff visited the 17 public bodies identified earlier to examine the quality and pattern of FOI decision making in the period between January 2002 and December 2003. A stratified random sample of almost 15% (1,300) of all FOI files held by the particular bodies were selected by my Office and examined under the following headings:

- reply/non-reply to FOI requests
- request outcomes (granted, refused, etc.)
- timeliness of decisions
- quality of decision process
- exemptions claimed
- charging of search and retrieval fees.

I conducted this phase of the investigation by way of two separate surveys: Survey One looked at the experience of the selected bodies between January 2002 and December 2003 while, to capture data affected by both the amendment and the introduction of fees, Survey Two looked at the experience of the bodies between July and December 2002 and the same six month period in 2003.

It should be noted that all files held by the Athlone Institute of Technology were examined due to the low number of requests received by the Institute. Accordingly, because of the small sample size, these figures are not included in the aggregate findings. Having said that, the pattern identified in the Institute was broadly in line with that found overall.

In addition, my staff interviewed the FOI Liaison Officer in each of the public bodies.

This Chapter outlines my findings in this regard. The public bodies surveyed are detailed in Appendix II and the data collected are set out in Appendix IV.

Analysis and Findings

I have already described the effects of the Amendment Act and the new fees regime on the behaviour of requesters. In this Chapter, I examine the behaviour of the other key actors in the equation: public bodies and their employees.

Some of the data collected gives me grounds for concern and suggest that additional research is required. In general, however, I found no pattern of behaviour that would suggest that public bodies or their staff have systematically changed their approach to the operation of the Act since its amendment nor did I find any evidence that either the Act or search and retrieval fees, request/appeal fees were being operated in a manner which would discourage users of the Act from pursuing their right of access to information.

The following sections briefly outline my findings in relation to reply/non-reply, timeliness of reply, outcomes, quality of decisions, exemptions claimed and the operation of search and retrieval fees.

Reply/Non-Reply and Timeliness of Reply

Among the public bodies investigated, I found no evidence of a pattern of failure to reply to FOI requests either post-amendment or after the introduction of fees. I found, rather, that with one quarterly exception of a 97% reply rate in 2002 the standard reply rate was 99-100% over the entire review period. In general, the Civil Service Departments investigated did not perform as well as the other bodies but the difference was marginal.

However, not all of these replies issued within the four weeks timescale. I did not discern any difference in pattern of behaviour between or within 2002 and 2003 for the Civil Service Departments which averaged 75% "on time" over the period. However, there was a slight fall in mid-2003 for the other public bodies which reduced their average from 84% in 2002 to 75% in 2003. This drop seems to have been reversed by year-end.

Outcomes

I found a marginal rise in the percentage of decisions where access to records was either granted in full or in part since the amendment of the Act/introduction of fees. This rise was not as noticeable as that found in the analysis outlined in Chapter Three but this probably arises as the sample of bodies analysed in this Chapter is more heavily weighted with "policy-type" departments which tend to have a higher refusal rate than "client-based" public bodies.

One area of note is the apparent disappearance of the practice of handling requests outside FOI, particularly in the wider public service. I would hope that this has not arisen through the "herding" of certain types of request into the FOI process in order to collect fees where none had been charged before. Having said that, however, I am aware that this has been explained as an indication that more requests are being dealt with immediately upon receipt and are not being recorded as FOI requests in the first place. I am also aware that in some organisations

the recording of these matters is unreliable at best and in some instances non-existent.

I return to this matter further in Chapter Five

Quality of Decision-Making Process

Initial Requests

In terms of quality of decision, I focused on cases where records had been refused in full or in part. I concentrated on three key indicators:

- was the relevant section of the Act quoted?
- was the exemption explained? and
- was the exemption applied to the records at issue?

Was the Relevant Section Quoted?

No pattern of lowering of standards emerges between 2002 and 2003: I found that the relevant section was quoted in 80% to 90% of the cases examined. The non-Civil Service bodies performed slightly better than their counterparts during 2003 but the difference was marginal.

Was the Exemption Explained?

Broadly speaking, the number of decisions where the exemption was explained improved over the period rising from 76% in 2002 to 85% in 2003 of the cases examined.

Was the Exemption Applied to the Record?

While the percentage of times that the exemptions were applied to the records covered a wider span (65% to 84% of cases examined), 2003 showed a marginal improvement on 2002.

While this aspect of my investigation did not reveal any fall in standards with regard to decision making, it did highlight the fact that much more needs to be done in terms of explaining exemptions and applying them to records - particularly now that requesters are paying for requests. I return to this matter in Chapter Five.

Internal Reviews

In terms of decisions to grant, part-grant or refuse FOI requests for access to records I found a decline in the number of cases appealed to internal review, down three percentage points to 8% in the last two quarters of 2003. This figure corresponds with my findings in this regard in Chapter Three.

In terms of the quality of the decision-making at internal review stage I found that it had improved to some degree between 2002 and 2003. However, given the expense which requesters incur for internal review I am particularly concerned to note that the performance indicators for decision-making at the internal review stage of the process are at least 10% lower than at original decision stage.

Exemptions Claimed

In the two year sampling period covered by the investigation, the exemptions most commonly used were sections 28 (personal information) and 10 (records do not exist or cannot be found). Others quoted extensively include section 19 (Government matters), section 20 (deliberative process) and section 21 (investigations, tests etc.). A surge in activity occurred in the period quarter four of 2002/quarter one of 2003. This coincides with the peak in requester activity that took place around this time.

When looking at the usage of these exemptions in terms of decisions to refuse or part-grant access to records I paid particular attention to those which were further restricted by the Amendment Act: section 19 (Government matters), section 20 (deliberative process) and section 24 (the security/defence of the State). I have already described in Chapter One the affects of the Amendment Act on these particular exemptions.

There was no evidence of increased usage of section 19 post-Amendment Act. Instead, I found that usage of section 19 dipped in mid-2003. This would suggest a fall (perhaps temporary) in requests for this type of record and would be consistent with the views expressed by FOI Liaison Officers.

While there is no discernible pattern to the usage of section 20, it is clear, however, that the amendment of the Act has not led to any increased use of this exemption. In addition, at my request, the Departments of Finance and Taoiseach made available to my staff all of their 2002/2003 files and records where section 20 had been quoted as an exemption. My staff chose a sample of 10% of these files (over 40 in all) and examined the decisions and records in each case. Although, in a small number of cases greater clarity on the reason for the usage of the exemption might have been useful, there was no evidence that section 20 was being improperly invoked in these Departments, either before or after the amendment to the Act.

Section 24 was not invoked at all by the non-Civil Service bodies. With the exception of Quarter 3, 2003 there is no evidence of a pattern of increased use of section 24. On the contrary, given it now has a class-based formula it is likely that it will decline further in usage as fewer requests are likely to be made for records in this area.

Search and Retrieval

In the files of the 17 bodies concerned, the actual number of occurrences of search and retrieval charges is quite small in comparison with the actual number of non-personal requests. In 2002 there were 116 occurrences while in 2003 there were 160. These accounted for 4.5% and 6.4% of non-personal requests respectively. Having said that, however, I am aware of instances where very large sums have been requested, in some cases running to multiples of thousands of euro. In such instances, following the demand for fees the requests were significantly refined or dropped altogether. I return to this matter in Chapter Five.

I have noted that the frequency of charging is low and, as such, it would be unwise to extrapolate any definitive conclusions. Having said that, however, the total collected in the 17 bodies in 2003 (€7,779) was 70% greater than that collected in 2002 (€4,612). In addition, there is evidence that some public bodies are beginning to charge systematically for search and retrieval whereas previously this was not always the case (e.g. voluntary hospitals).

Reduction of Application Fees

As part of my investigation, conscious that requesters might seek to reduce the impact of fees either by withdrawing the non-personal element of their requests or by withdrawing a non-personal request in full, I asked all public bodies to indicate the number of cases where reduction in original requests/internal review fees had occurred and instances where fees had been refunded due to requester withdrawal.

Fee Reduction

I extracted the post-fees data already supplied for the phase of my Investigation described in the previous Chapter. Of the 16 bodies that supplied me with fee reduction statistics, I found that of the 631 original requests for information between 7 July and 31 December 2003 reduced fees were granted in eight cases i.e. 1.27% of the total.

Fee Refund

I found that in the 16 bodies who supplied the information, fees had been refunded 28 times i.e. in 4.4% of cases.

Internal Review Reduction

Again, in the 16 bodies concerned I found that internal review fees had been reduced in only four cases.

Interviews with FOI Liaison Officers

My staff interviewed the relevant Liaison Officers about the approach of the particular bodies to FOI. The interviews encompassed the resources devoted to the Liaison Units, the quality standards applied to decision making and their experience of how the amendment of the Act and the introduction of application fees had affected them on a daily basis.

Resources

On average each of the 17 bodies has three staff dedicated to FOI work. These Units are usually headed up by a senior manager (at Assistant Principal level in the Civil Service). Approximately half of the Units deal with FOI on a full-time basis and there has been no diminution in the resources allocated over the past year.

Quality Checking

Of the 17 bodies involved, half had electronic tracking systems while the other half tracked the internal process manually. In terms of quality checking the decisions, 12 checked them at decision stage prior to issuing, two checked them post-issuing, one carried out spot-checks on decisions while one did not carry out any checks at all.

Search and Retrieval Fees

Half of the bodies surveyed stated that they levy search and retrieval fees consistently (three of whom began to levy fees in January/February 2003). Of those that charge, the rate of withdrawal of requests directly attributable to a demand from the public body for

search and retrieval fees averaged three per annum (this figure is primarily anecdotal). Only three bodies said that they had complaints made to them relating to the introduction of fees.

Request/Requester Types Affected

The primary request types which appear to have been affected are non-personal requests generally and "trawls" for information. Journalists were the requester type identified as most affected.

Request Type dealt with Outside FOI

Only one body said that it did not tend to release information outside of FOI. The type of requests dealt with outside of FOI were identified as being published material, staff personal information, statistics, non-sensitive information, patient records and administration records.

Records Management

Only ten of the 17 bodies had any form of records management policy in place.

Again, I did not find any evidence of a changed approach to FOI in the public bodies involved. The Liaison Units were headed up by a sufficiently senior member of staff and, notwithstanding the concerns about the decision-making process or FOI structures in some of the public bodies, my own staff were very impressed with the level of interest and dedication shown by the staff of the Units.

Having said that, I intend to ensure that the public body that does not have a procedure in place to check the quality of its decisions takes steps to address this short-coming. I address in Chapter Five a number of other concerns including the absence of a coherent strategy for records management.

Cases Appealed to the Office of the Information Commissioner

Of the cases examined, none was appealed to my Office on the basis of failure to reply to the request for internal review, suggesting that while the high fees for appeal to my Office might be dissuading some requesters it is not being used systematically by public bodies to filter out particular types of request or requester.

CHAPTER FIVE

Conclusions and Recommendations

The Impact of FOI

My investigation has focused on the extent to which the amendments to the Act and the introduction of fees have restricted its overall effectiveness.

Before outlining my conclusions and recommendations I want to place my investigation in context. Since the Act came into effect in 1998, the Irish public service has embraced it positively and diligently. Across the board, public servants and their Ministers recognise that the culture of official secrecy has no place in a modern, customer-focused administration. Thus, despite the amendments to the Act, the culture of FOI is here to stay and it is worth reflecting briefly on the impact which FOI has had over the past few years.

By end-December 2003 over 80,000 requests had been made under the Act. Many of these requests concerned personal matters relating directly to requesters, their families or to issues that impacted on their daily lives to a greater or lesser degree. As such, much of the positive impact of the Act goes unreported and, perhaps, unappreciated.

The Act also has been used by individuals and members of the media to scrutinise expenditure of public bodies and to examine the reasoning behind many of their decisions. I think it useful to highlight just some of the issues, which, thanks to the Act, are now in the public domain. The release of this material has enhanced public knowledge and, in some instances, has led the administration to amend or reverse its approach to key matters of public policy:

- Health Boards Reports in relation to the inspection of Nursing Homes are now released automatically,
- Report on Prison Health Care highlighted inadequacies within the system,
- Papers relating to the Tax Strategy Group suggested a difference of opinion with the Minister for Finance over tax "individualisation",
- papers from 2000 relating to decentralisation revealed senior civil servants unease at some of the proposals,
- Reports of Department of Education and Science Primary School Inspectors are now available,
- "University Feeder School" tables are regularly published,
- expenses of Members of the Oireachtas are routinely made available,
- policy of some hospitals relating to the transfer of children's body parts to hospitals in the United Kingdom became known,
- papers relating to applications for employment positions in public bodies (references, notes of interview boards etc.) are routinely available,
- papers were released relating to the agreement between the State and the Catholic Church on the funding arrangement for compensation payments arising from the institutional redress process,
- papers were released revealing tensions between the Department of Finance and the

Department of Health and Children in relation to Health Service expenditure,

- papers were released concerning the mounting costs for Sports Campus Ireland,
- inconsistencies between draft reports on rail safety were revealed,
- papers were released relating to the proposed appointment of former Supreme Court Justice Mr. O'Flaherty to the European Investment Bank,
- names of the recipients of the highest levels of certain EU agricultural subsidies are now released,
- communications between Government Departments and semi-State bodies are now routinely available (e.g. RTÉ licence fee),
- successful tender documentation often relating to expenditure of millions of Euro are now routinely released (e.g. Telecom Éireann flotation).

It is apparent, therefore, that the Act has proved itself as an invaluable instrument for scrutiny of public policy from the perspective of people as individuals and as tax-payers. It is my hope that Act will continue to be used in a way that will maximise its contribution to Irish society. The findings and recommendations arising from my investigation are intended to improve the overall effectiveness of FOI.

Consultation and Better Regulation

The amendment of the Freedom of Information Act and the introduction of fees inspired an unexpected level and intensity of debate amongst politicians, the media and the general public. The debate related to the possible impact of the amendments on the usage of the Act and, by extension, of the scrutiny of the decision-making of public bodies.

Unfortunately, much of the debate was less informed than it might have been. The review of the Act was undertaken in secret, additional provisions were included in the Bill without consultation with any of the interested parties, while the level of application fees was decided without any discussion of its possible impact on the operation of the Act. As mentioned earlier, other countries have reviewed their approaches to FOI.

While I note that practice abroad was considered by the High Level Group in its deliberations, I believe that an open review and analysis of the proposed changes coupled with my Office's experience would have ensured an informed debate on the likely impact of the proposed amendments. If the review had taken place in this manner it is possible that the effects of the changes on usage of the Act would not have been so dramatic.

Indeed, the Government's White Paper "Regulating Better" which was published in January 2004 emphasises the need for proper consultation as one of the critical points of good practice in improving the quality of regulation. The discussion document "Towards Better Regulation", which preceded the publication of the White Paper, included the following points:

- that regulations should be clear (well-drafted), coherent (can be easily followed) and capable of being readily understood by the public and by those directly affected by the regulation;
- that regulation making should follow a consultation process either with the public generally or with those likely to be affected specifically;
- that the views and requirements of those agencies required to implement a particular regulation should be sought in good time.

The White Paper includes six principles of good regulation. One of these - transparency - involves a commitment to consult more widely before regulating. Speaking at the launch of the White Paper, the Taoiseach said that the process of making regulations would be "more systematic and inclusive from now on" and would involve "open consultation".

Overall Findings

Arising from my investigation, the impact of the changes can be summarised as follows:

- 1) overall usage of the Act has fallen by over 50% while requests for non-personal information has declined by 75%;
- 2) the media, a key element of an open and properly functioning democracy, are now less likely to use the Act. Usage by journalists declined steadily throughout 2003. Between the first quarter of 2003 and the first quarter of 2004 the number of requests fell by 83% and still continues to decline.
- 3) other users of the Act, individuals and representative bodies, use the Act far less than before to access information on decisions that affect them directly or indirectly, and
- 4) despite the changes, public bodies appear to operate the Act in a fair and balanced manner. Subject to some caveats, there is no evidence to suggest that the amendment of the Act or the introduction of "up front" fees has altered their behaviour in this respect.

This Chapter posits some explanations as to why the decline occurred. It asks what were the factors that led to the decline and suggests actions that can be taken in the short and long-term to ensure that FOI optimises its role as a critical element of our democratic process.

Conclusions and Recommendations

Based on my analysis of the data collected in the course of this investigation, the examination of the FOI files of public bodies, the interviews with Liaison Officers and my analysis of the experience abroad, I highlight below a number of issues for further attention. And in accordance with section 36 of the Act I make a number of recommendations to improve the operation of the Act and to facilitate members of the public to better exercise their rights under it.

Decline in Usage of the Act

I have already identified the major changes that have occurred in the usage of the Act e.g. the sharp decline in non-personal requests together with a dramatic fall in the number of requests by journalists and other individuals/groups.

Given the amendment of specific sections of the Act (sections 19, 20, 21 and 24 for example) it is possible that some requesters have developed negative perceptions of its usefulness and have ceased making requests accordingly. However, where an exemption in the original Act had been amended to become a "class" exemption (i.e. there is no requirement to prove harm) it applies only in limited circumstances. In addition, where other exemptions have been amended they are still harm-based. Under the Act, the onus is on the public body to prove that the record falls within the general class or that it is reasonable to expect that the harm envisaged will occur. As such, *I urge any requester dissuaded from making requests by the amendments to the Act to think again and to pursue their access rights in this regard.*

I do not believe that the Government or the Oireachtas anticipated that the fall in usage of the Act would be so extensive. While I can readily accept that internal review requests and applications for review to my Office would be affected significantly by the new fees regime,

nevertheless, given the relatively modest level of the original request fee, the extent of the decline in the number of requests is surprising.

In advancing reasons for the introduction of fees the High Level Review Group alluded to "serial" requesters abusing the Act by submitting multiple requests to individual and multiple bodies. It is not appropriate in the context of the investigation to address the concept of vexatious requests which are very difficult to prove and, in fact, rarely malicious. With some exceptions, many such requests occur as a result of persons being damaged, or feeling that they have been damaged, by their interaction with public bodies and their requests represent an attempt to understand what happened and why it happened.

That said, however, a close look at the decline in the number of original requests reveals that requests from journalists fell by 83% between the beginning of 2003 and the beginning of 2004 while non-personal requests fell by 75%. I can accept that some requests are ill-thought out, too broadly constructed and, in some cases, represent a trawl through records to see if anything interesting emerges. Is it reasonable, however, to suggest that the introduction of fees "flushed out" approximately 2,000 serial or vexatious requests per year in the 37 bodies surveyed? I do not believe it is. A possible reason for the decline may be that requesters share a suspicion voiced by many commentators that less information would be released under the amended Act and that the fees regime would be used as a process to weed out all but the most determined of requesters. Unfortunately, those requesters who hold this view are unlikely to embark on the process of making an FOI request in the first place.

I am aware, anecdotally, that some requesters, particularly members of the media, feel that public bodies have become more stringent in their approach to the release of records. While it is possible that some public bodies may have become less flexible in this area it is clear from my findings that the public bodies continue to operate the letter of the Act in a fair and balanced manner. *I would encourage requesters to continue to exercise their access rights under the Act.*

Application Fees

Requesters should be aware of the Department of Finance's view that a number of requests for information submitted in one application are generally to be treated as a single application for fees purposes. It is possible that this position is not widely known.

In addition, arising from the interviews with Liaison Officers it became clear that it is possible that internal review requests arising from such application could be "split" into different review applications for fee purposes. While it appears that this has not happened as yet, I do not believe that such an approach would be welcome nor do I believe it possible within the constraints of the Act.

I have also found that, contrary to the Minister's view at the time, very few medical card holders have availed of the reduced level of fees prescribed under the regulations. Again, this may be as a result of a lack of information being made available to qualifying requesters in relation to the waiver provisions.

I recommend that the Central Policy Unit of the Department of Finance provide detailed information to the public on the operation of the fees regulations.

Under the fees regulations, fees should be refunded in full in the event of a request or appeal being withdrawn. The practice in my Office is to refund fees not only where the application is withdrawn in full but also where the requester is happy to reach a settlement on the basis of release of some of the records covered by his/her application and foregoing the balance. Such settlements, in effect, are withdrawals and in my view, qualify for a refund of fees. *I*

recommend that the Central Policy Unit of the Department of Finance ensure that public bodies follow a consistent approach to the charging of fees for requests and internal reviews which have been withdrawn.

In effect what will happen in these cases is that the request has been mediated outside FOI and, as such, the fee ought to be refunded.

Search and Retrieval Fees

From my examination of the sample of files in the 17 public bodies surveyed, I have found search and retrieval fees are being charged only in a minority of cases. Indeed, the amount actually paid in cases where fees could have been sought averages just over €3.00 per request either granted or part-granted. I am aware, however, of cases where requesters have been quoted figures in multiples of thousands of euro (e.g. requests relating to the Prison Service, the estimates process etc.). It is possible that not all such requests are sufficiently focused and this can give rise to these charges. Against that, however, public bodies are required under the Act to provide reasonable assistance to requesters in framing their request. *I recommend that all public bodies be mindful of those obligations under the Act when presented with requests that would attract significant search and retrieval fees.*

In addition, in Chapter Two I made reference to what I see as a possible dichotomy between the current policy of charging both application and search and retrieval fees which, on the face of it, does not appear to have been advocated by the High Level Group.

Journalists

The experience within public bodies is that journalists have been engaging in fewer trawls and fewer trivial requests. Under the current fee regime, journalists must now manage their usage of the Act more efficiently. I have already illustrated how requests can be maximised while incurring only a single up-front fee and how search and retrieval fees can be reduced by having a clear focus on the information required. I believe more can be done by the media to optimise the operation of the Act from their perspective and *I recommend that journalists and their employers should explore further their strategies in this regard.*

Individuals/Interest Groups

I believe that much of what I have said in relation to journalists applies equally to individuals and interest groups. To operate the Act effectively from this point of view they also should review their approach to FOI.

Refund of Fees Where Decisions Overturned

The fees were introduced to give requesters an appreciation of the true cost of FOI: in essence - the user pays (at least in part). Under consumer legislation the cost of goods that are proven to be defective are refunded to the consumer. I believe that similar rules should apply to FOI fees. If a public body at internal review overturns an earlier decision by the same public body it seems iniquitous to me that the requester must pay an additional €75 for information he or she was entitled to from the outset. The same principle ought to apply to similar decisions by my own Office. *I recommend that the Department of Finance reconsider its policy of non-refund of fees in these circumstances.*

Outside FOI

There appears to have been a recent decline in the percentage of requests being dealt with outside FOI, or, alternatively, a failure to record the fact that records are released in this manner. Clearly, I would be concerned if a higher percentage of requesters than would have been the case before the introduction of fees are now being required to pay such a fee. I note

that such an approach, if happening, would run contrary to public policy in this regard. The Minister of State at the Department of Finance, speaking to the Seanad on 5 May, 2004 said "FOI requesters should not be put to unnecessary expense and should be given the opportunity to obtain a refund where information can be obtained outside FOI or is definitely exempt". *I recommend that all public bodies review their policies to ensure that as many requests as possible are dealt with outside FOI.*

Decision-making Process

While indicating general satisfaction with the performance of the public bodies reviewed I noted that improvements were required in terms of the quality of the decision process at original application stage and at internal review stage, particularly as requesters are now paying for the privilege. *I recommend that all public bodies review and improve, where necessary, their decision-making processes in relation to each of the headings in Chapter Four of this Report.*

Records Management

We live in an era where the majority of information is electronically generated and stored. The amount of such information is expanding exponentially every year. The potential to use or lose this information is determined by the existence of a proper records management policy. Within an FOI context, an efficient records management system is an increasingly vital instrument in improving access to records, particularly in a situation where search and retrieval fees may be charged.

My findings indicate that much more needs to be done in this area. While I am aware that some public bodies are grappling with this new reality, others appear less willing. My predecessor, in his Compliance Report (2001) exhorted public bodies to set in train immediately the creation of such policies. The Inter-Departmental Working Group on FOI, recommended that public bodies initiate the drawing up of such policies. I believe, however, that the pace of change is such that this issue needs to be treated urgently and as such *I recommend that the Minister for Finance use his powers under section 15(5) of the FOI Act to put in place measures to ensure that records management policies and systems operate at an optimal level to meet the requirements of the Act.*

Future Reviews of the Act

I have already stated that some of the debate around the amendment of the Act and the introduction of fees was less informed than it might have been; many commentators felt that not enough time or information was available to analyse the import of the changes or to put them in the context of overseas experience. Writing at the time, one respected commentator noted that "(The) concerns around the operation of the original Act should be assessed in the course of an open review of the Act which would consider its best and worse aspects (and that) the short time frame will allow insufficient time for a wide-ranging review of the legislation".

Over time, legislation may be amended or repealed and, undoubtedly, the FOI Act will be amended further in due course. It is important for the proper operation of the Act, and the principles that lie behind it, that any further amendments be preceded by an extensive review of submissions from all interested parties. I believe the experience of other FOI regimes, most recently in Queensland, is very important in this regard.

Because of its nature, it is important that any review of FOI legislation be conducted in an open, transparent and inclusive manner. At a minimum, it should be based on consultation with external stakeholders, other jurisdictions, the Government, the public, public servants

and with the relevant Information Commissioner's Office.

It is regrettable that best practice from abroad was not followed in the review of Irish legislation. And extensive consultation is not only desirable but necessary - a point which is emphasised in the Government's White Paper "Regulating Better" to which I referred at the beginning of this Chapter.

To my mind, such a review should also take account of the experience of overseas jurisdictions both in changes to the operation and amendment of the Act. In Chapter Two I looked at some of these experiences. I set out below my recommendations relating to any future review of the Irish FOI Act.

Fees

Application Fees

The experience internationally has been that the introduction of fees usually leads to a reduction in the number of requests. In Ontario, for example, the introduction of fees at a lower level than Ireland led to a reduction of 20% in usage of the Act, prompting the Ontario Information Commissioner to question whether the new fees had gone too far. In Ireland's case, higher fees have led to a higher fall-off in applications. Like the Ontario Commissioner, I question whether the new fees are excessive.

Only three of the seven jurisdictions studied impose an application fee for FOI requests. None charges for internal review and only one (Ontario) charges for an application to the Information Commissioner's Office. And the fees charged in Ontario (€6.20 and €15.60 for personal and non-personal information, respectively) are substantially below Ireland's fee of €150 for non-personal information.

The overseas comparisons clearly demonstrate that the structure and scale of up-front fees in Ireland is out of line with practice abroad. In particular, the fee of €150 for applications to the Information Commissioner's Office appears excessive by comparison with practice abroad.

I recommend that the policy of charging up-front fees at internal review stage and for application to the Information Commissioner's Office be considered in the context of any future review of the Act.

I would propose that such a review bear in mind the Council of Europe guidance contained in its publication "Access to Official Documents" which states that fees charged should be reasonable and inexpensive (see Conclusions below).

Search and Retrieval Charges

The UK/Scottish model is one example which could be studied closely when it becomes operational in just a few months time. While it is not intended to charge application fees, it will include a capped charge on processing and search and retrieval time. This approach is useful in giving the requester an appreciation of the true cost of FOI albeit contained within a capped limit of 10% of the processing and search and retrieval time. It is also in keeping with the findings of the 2001 Queensland review which found that full cost recovery for voluminous requests is iniquitous.

I believe that the UK/Scottish model, if combined with efficient records management systems that deliver quick identification and recovery of requested information together with a focused strategic approach on the part of requesters, may have much to commend it and *I recommend that the operation of this model be reviewed in the context of any future review of the Act.*

There are a number of other areas of concern which would bear consideration in such a review.

Applications by Members of the Oireachtas

Some T.D.s have said that FOI charges should not apply to members of the Oireachtas. While my findings do not indicate any long-term impact on requests in this area, it is an issue that has been the subject of debate overseas. As mentioned earlier, the Australian Standing Committee on Legal and Constitutional and Legal Affairs recommended that requests for information normally provided to Members of Parliament by way of Parliamentary Answers should be furnished free of charge under FOI.

I recommend that this issue be considered in the context of any future review.

Applications by Members of the Media

One commentator has noted that in some countries (such as the United States) the news media, because of their function in informing the public are accorded special status as regards fees, and argues that a provision for fee waivers in relation to understanding matters of national importance should be made available to journalists researching major stories.

On the other hand the Australian Standing Committee did not recommend that a specific waiver provision be put in place for journalists. In setting out its reasons, it quoted their Attorney General's Office as saying "we would normally expect journalists to pay because, let us be frank, for the most part they are making requests on behalf of the papers which they represent. I think they may be distinguished from Members of Parliament who do not have commercial organisations behind them."

My predecessor, in his first Annual Report, outlined his views on the role of journalists in promoting transparency in the business of government:

"In a modern democracy one vital means of bringing information about the business of government into the public domain is through the media. It is important that the media's capacity to do this should not depend solely on channels where the choice of information, and the timing of its release, is at the discretion of the party providing it. The Act, by giving a statutory right of access to information, shifts the initiative to the requester. Hence the importance that the media avail of this right on behalf of the community".

I recommend that this matter be considered in the context of any future review.

Waiving of Fees in Public Interest/Public Benefit Cases

The Queensland Review considered whether fees should be waived where the request is in the public interest or would be of benefit to the public at large. This test is simpler and easier for public bodies to operate than the more nebulous test in the Irish Act which requires an assessment to be made as to whether the record would be of particular assistance to the understanding of an issue of national importance.

I recommend that this matter be considered in the context of any further review.

Conclusion

Shortly after the introduction of fees I described the FOI Act as being winded but not yet stretched off the pitch. This investigation report reveals the impact of the changes to the operation of the Act, it identifies measures that can be taken in the short-term to improve its operation, and I have suggested some recommendations to improve its effectiveness in the long-term.

In its *Recommendations on Access to Official Documents* the Council of Europe recently set out what it saw as the key principles that lie behind Freedom of Information, saying that it:

- allows the public to have an adequate view of, and to form a critical opinion on, the state of the society in which they live and on the authorities that govern them, whilst encouraging informed participation by the public in matters of common interest;
- fosters the efficiency and effectiveness of administrations and helps maintain their integrity by avoiding the risk of corruption;
- contributes to affirming the legitimacy of administrations as public services and to strengthening the public's confidence in public authorities.

In essence that is what FOI is about: requesters, decision-makers, policy-makers and legislators all have a key role to play in developing trust and confidence and public participation in the institutions of the State through, among other things, an effective FOI Act. It is my hope that this Report will play its part in improving the operation of the Act and enhance further the already recognised societal benefits associated with Freedom of Information legislation. To that end, I hope that it will prompt political and public debate about the current status of FOI in this country and that any further changes to the Act or to the fees regime will be informed both by this Report and the consequent debate.

I have no role in policy making, but it is now a question for the policy makers and the Department of Finance in particular, as to whether the changes introduced achieved what they set out to achieve. My conclusions are clear: the amendments to the Act have not had a significant impact on the FOI culture. But the imposition of fees has caused a sharp down turn in usage of the Act and has so diluted its guiding principles - as set out in its unchanged Long Title - that the policy of charging fees needs to be re-examined.

Finally, I turn to my own Office. The Office of the Information Commissioner is an indispensable part of the FOI regime in Ireland. Not only does it review decisions of public bodies but it also monitors the operation of the Act and encourages public bodies to publish information about their activities to members of the public. But the Office's role in reviewing decisions is of critical importance in embedding the principles of FOI throughout the public service. The Office's decisions in relation to Oireachtas members expenses and public tendering contracts are but two cases in point.

The number of applications for review to my Office has also declined following the introduction of a fee of €150 for non-personal information or a total of €240 when internal review and initial request fees are factored in. The scale of this fee is unprecedented in Information Commissioners' Offices in the jurisdictions studied in this Report. And, regrettably, the fall in the number of appeals indirectly diminishes the capacity of my Office, by making new "landmark" decisions, to continue its important work of embedding the key FOI principles of openness, transparency, and accountability.

In view of these developments, the first priority for the Department of Finance in any review of the fees structure, generally, should be a re-appraisal of the fees chargeable by my Office.

Public Bodies Surveyed In Relation To Chapter Three

All Government Departments, Office of Public Works, Revenue Commissioners, Civil Service and Local Appointments Commission, Offices of Houses of the Oireachtas, Ombudsman, RTE, Health and Safety Authority, Mater Misericordiae University Hospital, Adelaide and Meath Hospital (Tallaght), Southern Health Board, Western Health Board, East Coast Area Health Board, Cork County Council, Dublin City Council, Kerry County Council, Mayo County Council, Fingal County Council, University College Dublin, National University of Ireland Maynooth, Dublin Institute of Technology, Galway/Mayo Institute of Technology and the Athlone Institute of Technology.

The letter requesting these details read as follows:

Dear

The Information Commissioner is empowered under section 36 of the Freedom of Information Act to carry out an investigation into "the practices and procedures adopted by public bodies generally or any particular public body or public bodies for the purposes of compliance with the provisions of the Act generally and for the purposes of enabling persons to exercise the rights conferred by this Act and to prepare a report".

The Commissioner has decided to initiate such an investigation in relation to a number of public bodies including [name of body]. As a first step, she intends to collate statistics relating to FOI requests received by public bodies, broken down by month, covering the period 1 January 2002 to 31 December 2003. I do not believe that this request will have significant resource implications for [name of body] as it requires only a disaggregation of the statistics which you currently provide on an annual basis. An Investigator from this Office will contact your FOI Liaison Officer in this regard in the very near future.

In addition, it is the Commissioner's intention to examine in some detail the procedures and practices for dealing with FOI requests in a sample of public bodies. If it is decided to include your [public body] in the sample I will write to you again to explain the scope of the investigation.

The Commissioner intends to publish the investigation report sometime in mid-2004 when it will be presented to the Oireachtas, the Minister for Finance and the public bodies concerned in accordance with section 36(5) of the FOI Act. She would be obliged to have your [public body's] full co-operation in the matter.

Yours sincerely,

Pat Whelan
Director General

Subsequent to this letter, similar data were requested in respect of January-March 2004.

APPENDIX II

Public Bodies Surveyed in Relation To Chapter Three

Department of Finance, Department of Taoiseach, Department of Foreign Affairs, Department of Justice, Equality and Law Reform, Department of Social and Family Affairs, Department of Enterprise, Trade and Employment, Department of Health and Children (excluding child care records), Department of Communications, Marine and Natural Resources, Health and Safety Authority, Mater Misericordiae University Hospital, Adelaide and Meath Hospital (Tallaght), Southern Health Board, East Coast Area Health Board, Dublin City Council, Mayo County Council, University College Dublin and Athlone Institute of Technology.

The letter requesting these details read as follows:

Dear

You will recall that I wrote to you on 8 December 2003, notifying you that the Commissioner is carrying out an investigation under section 36 of the Freedom of Information Act "into the practices and procedures adopted by public bodies generally or any particular public body or public bodies for the purposes of compliance with the provisions of the Act generally and for the purposes of enabling persons to exercise the rights conferred by this Act".

In my letter I indicated that the Commissioner intended to examine, in some detail, the procedures and practices for dealing with FOI requests in a sample of public bodies. [Name of Body] is among the bodies that have been selected for examination.

The scope of this phase of the investigation is to build a profile of all requests received by a number of public bodies between 1 January 2002 and 31 December, 2003 in terms of the request itself, what exemptions (if any) applied, the type of requester, the outcome of the request etc. I attach a template showing the information required initially and would appreciate if you could arrange to have it completed and returned to my colleague, Mr. Liam Kelly, Senior Investigator, as soon as possible.

From the list of cases provided this Office will select a stratified random sample of case files which it proposes to examine in some detail. An Investigator from this Office will contact your FOI Liaison Officer at that stage to arrange an inspection of these files and to talk about the procedures and review mechanisms in place in the [Name of Body] for dealing with FOI requests. If, in the light of the data collected, the Commissioner has grounds to criticise your organisations FOI procedures and practices, you will be afforded an opportunity to comment before the investigation report is completed.

I appreciate that the investigation will cause some disruption to the ongoing work of the FOI Unit in your organisation but the Commissioner would be glad to have your ongoing co-operation so that it may be completed as quickly as possible.

Yours sincerely,

Pat Whelan
Director General

Reference Number	Date Received	Date Decision Issued	Date Int. Rev. Issued	Request Type ¹	Requester Profile ²	Outcome of Request ³	Search and Retrieval Fee (Y/N)
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1 Personal
Non-personal
Mixed

2 Journalist
Business
Oireachtas Member
Staff
Other

3 Granted
Part-granted
Refused
Transferred to appropriate body
Withdrawn
Handled outside FOI

APPENDIX III

ALL BODIES

TYPE OF REQUEST

TOTAL APPLICATIONS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

		Total*	Personal	Non-Personal	Mixed
2002		10410	5406	4755	249
2003		10700 (+3%)	6306 (-17%)	4130 (-13%)	264 (+6%)
2002	Q1	2448	1135	1256	57
	Q2	2473 (+1%)	1328 (+17%)	1087 (-13%)	58 (+2%)
	Q3	2772 (+12%)	1617 (+22%)	1085 (-)	70 (+21%)
	Q4	2717 (-2%)	1326 (-18%)	1327 (+22%)	64 (-9%)
	Q1-Q4	+11%	+17%	+6%	+12%
2003	Q1	3690 (+36%)	1799 (+36%)	1812 (+37%)	79 (+23%)
	Q2	2843 (-23%)	1667 (-7%)	1104 (-39%)	72 (-9%)
	Q3	2254 (-21%)	1440 (-14%)	762 (-31%)	52 (-28%)
	Q4	1913 (-15%)	1400 (-3%)	452 (-41%)	61 (+17%)
	Q1-Q4	-48%	-22%	-75%	-23%
2004	Q1	1823 (-5%)	1305 (-7%)	454 (-)	64 (+5%)

+ Minor Inconsistencies in a number of returns between "Type of Request" and "Request Type"

Q1 2002-Q1 2003	+51%	+59%	+44%	+39%
Q2 2002-Q2 2003	+15%	+26%	+2%	+24%
Q3 2002-Q3 2003	-19%	-11%	-30%	-26%
Q4 2002-Q4 2003	-30%	+6%	-66%	-5%
Q1 2003-Q1 2004	-51%	-27%	-75%	-19%

TYPE OF REQUEST:

QUARTERLY BREAKDOWN JUL-DEC 2002 AND 2003 BY MONTH AND PERCENTAGE CHANGE BETWEEN MONTH 1 AND MONTH 3 IN EACH QUARTER

		Total	Personal	Non-Personal	Mixed
2002	Jul	894	491	379	24
	Aug	931	538	370	23
	Sept	947	588	336	23
	Jul-Sept	+6%	+20%	-11%	-4%
	Oct	1104	570	506	28
	Nov	947	475	447	25
	Dec	666	281	374	11
	Oct-Dec	-40%	-51%	-26%	-61%
	Jul-Dec	-26%	-43%	-1%	-54%
2003	Jul	976	551	410	15
	Aug	564	385	163	16
	Sept	714	504	189	21
	Jul-Sept	-27%	-9%	-54%	+40%
	Oct	734	534	177	23
	Nov	680	489	173	18
	Dec	499	377	102	20
	Oct-Dec	-32%	-29%	-42%	-13%
	Jul-Dec	-49%	-32%	-75%	+33%
2004	Jan	537	377	142	18
	Feb	681	485	173	23
	Mar	605	443	139	23
	Jan-Mar	+13%	+18%	-2%	+28%

ALL BODIES

REQUESTER TYPE

TOTALS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

	Requester Type+	Journalists	Business	Oireachtas	Staff	Others
2002	10417	1379	998	109	635	7296
2003	10725 (+3%)	1500 (+9%)	714 (-28%)	295 (+171%)	416 (-34%)	7800 (+7%)
2002						
Q1	2446	363	286	46	212	1539
Q2	2477 (+1%)	240 (-34%)	256 (-10%)	20 (-57%)	151 (-29%)	1810 (+18%)
Q3	2767 (+12%)	278 (+16%)	226 (-12%)	20 (-)	136 (-10%)	2107 (+16%)
Q4	2727 (-1%)	498 (+79%)	230 (+2%)	23 (+15%)	136 (-)	1840 (-13%)
2003						
Q1	3692 (+35%)	686 (+38%)	270 (+17%)	101 (+339%)	104 (-24%)	2531 (+38%)
Q2	2844 (-23%)	344 (-50%)	201 (-26%)	105 (+4%)	94 (-10%)	2100 (-17%)
Q3	2273 (-20%)	297 (-14%)	135 (-33%)	75 (-29%)	95 (+1%)	1671 (-20%)
Q4	1916 (-16%)	173 (-42%)	108 (-20%)	14 (-81%)	123 (+29%)	1498 (-10%)
2004						
Q1	1823 (-5%)	119 (-31%)	128 (+19%)	26 (+86%)	127 (+3%)	1423 (-5%)

+ Minor Inconsistencies in a number of returns between "Type of Request" and "Request Type"

Q1 2002-Q1 2003	+51%	+89%	-6%	+120%	-51%	+64%
Q2 2002-Q2 2003	+15%	+43%	-21%	+425%	-38%	+16%
Q3 2002-Q3 2003	-18%	+7%	-40%	+275%	-30%	-21%
Q4 2002-Q4 2003	-30%	-65%	-53%	-39%	-10%	-19%
Q1 2003-Q1 2004	-51%	-83%	-53%	-74%	+22%	-44%

OUTCOME OF REQUEST

TOTAL AND PERCENTAGE OF TOTAL

	Total	Granted	Part-Granted	Refused	Transferred	O/S FOI
2002	9814	3593 (37%)	2240 (23%)	2495 (25%)	239 (2%)	1247 (13%)
Q1	2189	903 (41%)	538 (25%)	405 (19%)	29 (1%)	314 (14%)
Q2	2441	924 (38%)	502 (21%)	650 (27%)	72 (3%)	293 (12%)
Q3	2456	852 (35%)	529 (22%)	693 (28%)	59 (2%)	323 (13%)
Q4	2728	914 (34%)	671 (25%)	747 (27%)	79 (3%)	317 (12%)
2003	8115	3457 (43%)	1888 (23%)	1606 (20%)	189 (2%)	975 (12%)
Q1	2681	1030 (38%)	624 (23%)	595 (22%)	49 (2%)	383 (14%)
Q2	2232	929 (42%)	504 (23%)	486 (22%)	52 (2%)	261 (12%)
Q3	1838	817 (44%)	452 (25%)	340 (18%)	41 (2%)	188 (10%)
Q4	1364	681 (50%)	308 (23%)	185 (14%)	47 (3%)	143 (10%)
2004						
Q1	1790	745 (42%)	529 (30%)	327 (18%)	25 (1%)	164 (9%)

INTERNAL REVIEW APPLICATIONS BY QUARTER AND PERCENTAGE OF DECISIONS IN EACH PERIOD

Internal Review Applications

2002:		2003:		2004:	
Q1	178 (10%)	Q1	254 (11%)	Q1	107 (7%)
Q2	274 (13%)	Q2	346 (18%)		
Q3	311 (15%)	Q3	262 (16%)		
Q4	351 (15%)	Q4	118 (10%)		

CIVIL SERVICE

TYPE OF REQUEST

TOTAL APPLICATIONS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

		Total +	Personal	Non-Personal	Mixed
2002		6748	3562	3116	50
2003		6773 (+0.4%)	4105 (+15%)	2629 (-16%)	39 (-22%)
2002	Q1	1517	699	801	17
	Q2	1591 (+5%)	882 (+26%)	703 (-12%)	6 (-65%)
	Q3	1822 (+15%)	1133 (+28%)	675 (-4%)	14 (+133%)
	Q4	1818 (-)	868 (-23%)	937 (+39%)	13 (-7%)
	Q1-Q4	+20%	+24%	+17%	-24%
2003	Q1	2471 (+36%)	1247 (+44%)	1214 (+30%)	10 (-23%)
	Q2	1783 (-28%)	1110 (-11%)	656 (-46%)	17 (+70%)
	Q3	1331 (-25%)	847 (-24%)	476 (-27%)	8 (-53%)
	Q4	1188 (-11%)	901 (+6%)	283 (-41%)	4 (-50%)
	Q1-Q4	-52%	-28%	-77%	-60%
2004	Q1	1141 (-4%)	852 (-5%)	286 (+1%)	3 (-25%)

+ Minor Inconsistencies in a number of returns between "Type of Request" and "Request Type"

Q1 2002-Q1 2003	+63%	+78%	+52%	-41%
Q2 2002-Q2 2003	+12%	+26%	-7%	+183%
Q3 2002-Q3 2003	-27%	-25%	-29%	-43%
Q4 2002-Q4 2003	-35%	+4%	-70%	-69%
Q1 2003-Q1 2004	-54%	-32%	-76%	-70%

TYPE OF REQUEST:

QUARTERLY BREAKDOWN JUL-DEC 2002 AND 2003 BY MONTH AND PERCENTAGE CHANGE BETWEEN MONTH 1 AND MONTH 3 IN EACH QUARTER

		Total	Personal	Non-Personal	Mixed
2002	Jul	566	317	245	4
	Aug	611	383	222	6
	Sept	645	433	208	4
	Jul-Sept	+14%	+37%	-15%	0%
	Oct	750	393	349	8
	Nov	627	315	308	4
	Dec	441	160	280	1
	Oct-Dec	-41%	-59%	-20%	-88%
	Jul-Dec	-22%	-50%	+14%	-66%
2003	Jul	596	324	267	5
	Aug	342	229	112	1
	Sept	393	294	97	2
	Jul-Sept	-34%	-9%	-64%	-60%
	Oct	471	361	109	1
	Nov	419	306	112	1
	Dec	298	234	62	2
	Oct-Dec	-37%	-35%	-43%	+100%
	Jul-Dec	-50%	-27%	-77%	-60%
2004	Jan	322	242	79	1
	Feb	430	314	115	1
	Mar	389	296	92	1
	Jan-Mar	+21%	+22%	+16%	-

CIVIL SERVICE

REQUESTER TYPE

TOTALS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

	Requester Type+	Journalists	Business	Oireachtas	Staff	Others
2002	6749	1102	611	78	258	4700
2003	6773 (-)	1153 (+5%)	316 (-48%)	229 (+194%)	193 (-25%)	4882 (+4%)
2002						
Q1	1517	295	170	26	81	945
Q2	1591 (+5%)	186 (-37%)	175 (+3%)	14 (-46%)	64 (-21%)	1152 (+22%)
Q3	1821 (+14%)	220 (+18%)	125 (-29%)	20 (+43%)	60 (-6%)	1396 (+21%)
Q4	1820 -	401 (+82%)	141 (+13%)	18 (-10%)	53 (-12%)	1207 (-14%)
2003						
Q1	2469 (+36%)	518 (+29%)	128 (-9%)	92 (+411%)	57 (+8%)	1674 (+39%)
Q2	1773 (-28%)	246 (-53%)	73 (-43%)	68 (-26%)	45 (-21%)	1341 (-20%)
Q3	1343 (-24%)	235 (-4%)	63 (-14%)	59 (-13%)	40 (-11%)	946 (-29%)
Q4	1188 (-12%)	154 (-34%)	52 (-17%)	10 (-83%)	51 (+28%)	921 (-3%)
2004						
Q1	1141 (-4%)	83 (-46%)	85 (+63%)	19 (+90%)	50 (-2%)	904 (-2%)

+ Minor Inconsistencies in a number of returns between "Type of Request" and "Request Type"

Q1 2002-Q1 2003	+63%	+76%	-25%	+254%	-30%	+77%
Q2 2002-Q2 2003	+11%	+32%	-58%	+386%	-30%	+16%
Q3 2002-Q3 2003	-26%	+7%	-50%	+195%	-33%	-32%
Q4 2002-Q4 2003	-35%	-62%	-63%	-44%	-4%	-24%
Q1 2003-Q1 2004	-54%	-84%	-34%	-79%	-12%	-46%

OUTCOME OF REQUEST

TOTAL AND PERCENTAGE OF TOTAL

	Total	Granted	Part-Granted	Refused	Transferred	O/S FOI
2002	6327	1803 (28%)	1509 (24%)	1979 (31%)	218 (3%)	818 (13%)
Q1	1388	493 (36%)	379 (27%)	279 (20%)	27 (2%)	210 (15%)
Q2	1609	473 (29%)	343 (21%)	535 (33%)	64 (4%)	194 (12%)
Q3	1547	379 (24%)	336 (22%)	565 (37%)	56 (4%)	211 (14%)
Q4	1783	458 (26%)	451 (25%)	600 (34%)	71 (4%)	203 (11%)
2003	4311	1529 (35%)	1080 (25%)	985 (23%)	139 (3%)	578 (13%)
Q1	1612	514 (32%)	415 (26%)	400 (25%)	40 (2%)	243 (15%)
Q2	1164	414 (36%)	267 (23%)	291 (25%)	38 (3%)	154 (13%)
Q3	920	335 (36%)	262 (28%)	196 (21%)	27 (3%)	100 (11%)
Q4	615	266 (43%)	136 (22%)	98 (16%)	34 (6%)	81 (13%)
2004						
Q1	1080	341 (32%)	371 (34%)	243 (23%)	10 (1%)	115 (11%)

INTERNAL REVIEW APPLICATIONS BY QUARTER AND PERCENTAGE OF DECISIONS IN EACH PERIOD

Internal Review Applications

2002:		2003:		2004:	
Q1	99 (9%)	Q1	177 (12%)	Q1:	64 (7%)
Q2	200 (15%)	Q2	228 (23%)		
Q3	233 (18%)	Q3	175 (22%)		
Q4	261 (17%)	Q4	70 (14%)		

OTHER BODIES

TYPE OF REQUEST

TOTAL APPLICATIONS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

		Total +	Personal	Non-Personal	Mixed
2002		3662	1824	1639	199
2003		3927 (+7%)	2201 (+21%)	1501 (-8%)	225 (+13%)
2002	Q1	931	436	455	40
	Q2	882 (-5%)	446 (+2%)	384 (-16%)	52 (+30%)
	Q3	950 (+8%)	484 (+9%)	410 (+7%)	56 (+8%)
	Q4	899 (-5%)	458 (-5%)	390 (-5%)	51 (-9%)
	Q1-Q4	-3%	+5%	-14%	+28%
2003	Q1	1219 (+36%)	552 (+21%)	598 (+53%)	69 (+35%)
	Q2	1060 (-13%)	557 (+1%)	448 (-25%)	55 (-20%)
	Q3	923 (-13%)	593 (+6%)	286 (-36%)	44 (-20%)
	Q4	725 (-21%)	499 (-16%)	169 (-41%)	57 (+30%)
	Q1-Q4	-41%	-10%	-72%	-17%
2004	Q1	682 (-6%)	453 (-9%)	168 (-1%)	61 (+7%)

+ Minor Inconsistencies in a number of returns between "Type of Request" and "Request Type"

Q1 2002-Q1 2003	+31%	+27%	+31%	+73%
Q2 2002-Q2 2003	+20%	+25%	+17%	+6%
Q3 2002-Q3 2003	-3%	+23%	-30%	-21%
Q4 2002-Q4 2003	-19%	+9%	-57%	+12%
Q1 2003-Q1 2004	-44%	-18%	-72%	-12%

TYPE OF REQUEST:

QUARTERLY BREAKDOWN JUL-DEC 2002 AND 2003 BY MONTH AND PERCENTAGE CHANGE BETWEEN MONTH 1 AND MONTH 3 IN EACH QUARTER

		Total	Personal	Non-Personal	Mixed
2002	Jul	328	174	134	20
	Aug	320	155	148	17
	Sept	302	155	128	19
	Jul-Sept	-8%	-11%	-4%	-5%
	Oct	354	177	157	20
	Nov	320	160	139	21
	Dec	225	121	94	10
	Oct-Dec	-36%	-32%	-40%	-50%
	Jul-Dec	-31%	-30%	-30%	-50%
2003	Jul	380	227	143	10
	Aug	222	156	51	15
	Sept	321	210	92	19
	Jul-Sept	-16%	-7%	-36%	+90%
	Oct	263	173	68	22
	Nov	261	183	61	17
	Dec	201	143	40	18
	Oct-Dec	-24%	-17%	-41%	-18%
	Jul-Dec	-47%	-37%	-72%	+80%
2004	Jan	215	135	63	17
	Feb	251	171	58	22
	Mar	216	147	47	22
	Jan-Mar	-	+9%	-25%	+29%

OTHER BODIES

REQUESTER TYPE

TOTALS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

	Requester Type+	Journalists	Business	Oireachtas	Staff	Others
2002	3668	277	387	31	377	2596
2003	3952 (+8%)	347 (+74%)	398 (+3%)	66 (+113%)	223 (-41%)	2918 (+12%)
2002						
Q1	929	68	116	20	131	594
Q2	886 (-5%)	54 (-21%)	81 (-30%)	6 (-70%)	87 (-34%)	658 (+11%)
Q3	946 (+7%)	58 (+7%)	101 (+25%)	0 (-600%)	76 (-13%)	711 (+8%)
Q4	907 (-4%)	97 (+67%)	89 (-12%)	5 (+500%)	83 (+9%)	633 (-11%)
2003						
Q1	1223 (+35%)	168 (+73%)	142 (+60%)	9 (+80%)	47 (-43%)	857 (+35%)
Q2	1071 (-12%)	96 (-42%)	128 (-10%)	37 (+311%)	49 (+4%)	759 (-11%)
Q3	930 (-13%)	62 (-37%)	72 (-44%)	16 (-57%)	55 (+12%)	725 (-4%)
Q4	728 (-22%)	19 (-69%)	56 (-22%)	4 (-75%)	72 (+31%)	577 (-20%)
2004						
Q1	682 (-6%)	36 (+89%)	43 (-23%)	7 (+75%)	77 (+7%)	519 (-10%)

+Minor Inconsistencies in a number of returns between "Type of Request" and "Request Type"

Q1 2002-Q1 2003	+32%	+147%	+22%	-55%	-64%	+44%
Q2 2002-Q2 2003	+21%	+81%	+58%	+517%	-44%	+15%
Q3 2002-Q3 2003	-2%	+7%	-29%	+1600%	-28%	+2%
Q4 2002-Q4 2003	-20%	-80%	-37%	-20%	-13%	-9%
Q1 2003-Q1 2004	-44%	-79%	-70%	-22%	+64%	-39%

OUTCOME OF REQUEST

TOTAL AND PERCENTAGE OF TOTAL

	Total	Granted	Part-Granted	Refused	Transferred	O/S FOI
2002	3487	1790 (51%)	731 (21%)	516 (15%)	21 (1%)	429 (12%)
Q1	801	410 (51%)	159 (20%)	126 (16%)	2 (-)	104 (13%)
Q2	832	451 (54%)	159 (19%)	115 (14%)	8 (1%)	99 (12%)
Q3	909	473 (52%)	193 (21%)	128 (14%)	3 (-)	112 (12%)
Q4	945	456 (48%)	220 (23%)	147 (16%)	8 (1%)	114 (12%)
2003	3804	1928 (51%)	808 (21%)	621 (16%)	50 (1%)	397 (10%)
Q1	1069	516 (48%)	209 (20%)	195 (18%)	9 (1%)	140 (13%)
Q2	1068	515 (48%)	237 (22%)	195 (18%)	14 (1%)	107 (10%)
Q3	918	482 (53%)	190 (21%)	144 (16%)	14 (2%)	88 (10%)
Q4	749	415 (55%)	172 (23%)	87 (12%)	13 (2%)	62 (8%)
2004						
Q1	710	404 (57%)	158 (22%)	84 (12%)	15 (2%)	49 (7%)

INTERNAL REVIEW APPLICATIONS BY QUARTER AND PERCENTAGE OF DECISIONS IN EACH PERIOD

Internal Review Applications

2002:		2003:		2004:	
Q1	79 (11%)	Q1	77 (8%)	Q1	43 (7%)
Q2	74 (10%)	Q2	118 (12%)		
Q3	78 (10%)	Q3	87 (11%)		
Q4	90 (11%)	Q4	48 (7%)		

DEPARTMENT OF THE TAOISEACH

TYPE OF REQUEST

TOTAL APPLICATIONS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

		Total	Personal	Non-Personal	Mixed
2002		146	9	135	2
2003		142 (-3%)	5 (-44%)	133 (-1%)	4 (+100%)
2002	Q1	46	4	40	2
	Q2	29 (-37%)	2 (-50%)	27 (-33%)	0
	Q3	25 (-14%)	2 (-)	23 (-15%)	0
	Q4	46 (+84%)	1 (-50%)	45 (+96%)	0
	Q1-Q4	-	-75%	+13%	-200%
2003	Q1	81 (+76%)	4 (+300%)	76 (+69%)	1 (+100%)
	Q2	34 (-58%)	0 (-400%)	32 (-58%)	2 (+100%)
	Q3	16 (-53%)	1 (+100%)	15 (-53%)	0 (-200%)
	Q4	11 (-31%)	0 (-100%)	10 (-33%)	1 (+100%)
	Q1-Q4	-86%	-400%	-87%	-
2004	Q1	20 (+82%)	5 (+500%)	15 (+50%)	0 (-100%)
Q1 2002-Q1 2003		+76%	-	+90%	-50%
Q2 2002-Q2 2003		+17%	-200%	+19%	+200%
Q3 2002-Q3 2003		-36%	-50%	-35%	-
Q4 2002-Q4 2003		-76%	-100%	-78%	+100%
Q1 2003-Q1 2004		-75%	+25%	-80%	-100%

TYPE OF REQUEST:

QUARTERLY BREAKDOWN JUL-DEC 2002 AND 2003 BY MONTH AND PERCENTAGE CHANGE BETWEEN MONTH 1 AND MONTH 3 IN EACH QUARTER

		Total	Personal	Non-Personal	Mixed
2002	Jul	10	2	8	0
	Aug	8	0	8	0
	Sept	7	0	7	0
	Jul-Sept	-30%	-100%	-14%	-
	Oct	13	0	13	0
	Nov	15	1	14	0
	Dec	18	0	18	0
	Oct-Dec	+38%	-	+38%	-
	Jul-Dec	+80%	-100%	+125%	-
	2003	Jul	6	1	5
Aug		6	0	6	0
Sept		4	0	4	0
Jul-Sept		-33%	-100%	-20%	-
Oct		2	0	2	0
Nov		6	0	6	0
Dec		3	0	2	1
Oct-Dec		+50%	-	+50%	+100%
Jul-Dec		-50%	-100%	-60%	+100%
2004		Jan	1	1	0
	Feb	9	2	7	0
	Mar	10	2	8	0
	Jan-Mar	+900%	+100%	+800%	-

DEPARTMENT OF THE TAOISEACH

REQUESTER TYPE

TOTALS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

	Requester Type	Journalists	Business	Oireachtas	Staff	Others
2002	146	80	9	6	0	51
2003	142 (-3%)	90 (+13%)	10 (+11%)	11 (+83%)	0 (-)	31 (-39%)
2002						
Q1	46	27	0	2	0	17
Q2	29 (-37%)	13 (-52%)	3 (+300%)	2 (-)	0 (-)	11 (-35%)
Q3	25 (-14%)	10 (-23%)	4 (+33%)	2 (-)	0 (-)	9 (-18%)
Q4	46 (+84%)	30 (+200%)	2 (-50%)	0 (-200%)	0 (-)	14 (+56%)
2003						
Q1	80 (+74%)	51 (+70%)	5 (+150%)	5 (+500%)	0 (-)	19 (+36%)
Q2	28 (-65%)	16 (-69%)	1 (-80%)	2 (-60%)	0 (-)	9 (-53%)
Q3	23 (-18%)	14 (-13%)	3 (+200%)	3 (+50%)	0 (-)	3 (-67%)
Q4	11 (-52%)	9 (-36%)	1 (-67%)	1 (-67%)	0 (-)	0 (-300%)
2004						
Q1	20 (+82%)	4 (-56%)	5 (+400%)	0 (-100%)	0 (-)	11 (+1100%)
Q1 2002-Q1 2003	+74%	+89%	+500%	+150%	-	+12%
Q2 2002-Q2 2003	-4%	+23%	-67%	-	-	-18%
Q3 2002-Q3 2003	-8%	+40%	-25%	+50%	-	-67%
Q4 2002-Q4 2003	-76%	-70%	-50%	+100%	-	-1400%
Q1 2003-Q1 2004	-75%	-92%	-	-500%	-	-42%

OUTCOME OF REQUEST

TOTAL AND PERCENTAGE OF TOTAL

	Total	Granted	Part-Granted	Refused	Transferred	O/S FOI
2002	146	49 (34%)	35 (24%)	35 (24%)	9 (6%)	18 (12%)
Q1	46	18 (39%)	11 (24%)	8 (17%)	2 (4%)	7 (15%)
Q2	29	7 (24%)	7 (24%)	11 (38%)	3 (10%)	1 (3%)
Q3	25	3 (12%)	8 (32%)	9 (36%)	2 (8%)	3 (12%)
Q4	46	21 (46%)	9 (20%)	7 (15%)	2 (4%)	7 (15%)
2003	142	38 (27%)	46 (32%)	44 (31%)	5 (4%)	9 (6%)
Q1	80	21 (26%)	27 (34%)	24 (30%)	3 (4%)	5 (6%)
Q2	28	7 (25%)	8 (29%)	11 (39%)	0 (-)	2 (7%)
Q3	23	7 (30%)	8 (35%)	5 (22%)	2 (9%)	1 (4%)
Q4	11	3 (27%)	3 (27%)	4 (36%)	0 (-)	1 (9%)
2004						
Q1	19	6 (32%)	4 (21%)	7 (37%)	0 (-)	2 (11%)

INTERNAL REVIEW APPLICATIONS BY QUARTER AND PERCENTAGE OF DECISIONS IN EACH PERIOD

Internal Review Applications

2002:		2003:		2004:	
Q1	1 (3%)	Q1	4 (5%)	Q1	0 (-)
Q2	3 (12%)	Q2	2 (8%)		
Q3	2 (10%)	Q3	0 (-)		
Q4	5 (14%)	Q4	0 (-)		

DEPARTMENT OF FINANCE

TYPE OF REQUEST

TOTAL APPLICATIONS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

		Total	Personal	Non-Personal	Mixed
2002		326	27	297	2
2003		305 (-6%)	24 (-11%)	279 (-6%)	2 (-)
2002	Q1	90	5	85	0
	Q2	45 (-50%)	5 (-)	40 (-53%)	0
	Q3	79 (+76%)	8 (+60%)	71 (+78%)	0
	Q4	112 (+42%)	9 (+13%)	101 (+42%)	2 (+200%)
	Q1-Q4	+24%	+80%	+19%	+200%
2003	Q1	160 (+43%)	11 (+22%)	148 (+47%)	1 (-50%)
	Q2	58 (-64%)	5 (-55%)	53 (-64%)	0 (-100%)
	Q3	55 (-5%)	5 (-)	50 (-6%)	0 (-)
	Q4	32 (-42%)	3 (-40%)	28 (-44%)	1 (+100%)
	Q1-Q4	-80%	-73%	-81%	-
2004	Q1	24 (-25%)	4 (+33%)	20 (-29%)	0 (-100%)
Q1 2002-Q1 2003		+78%	+120%	+74%	+100%
Q2 2002-Q2 2003		+29%	-	+33%	-
Q3 2002-Q3 2003		-30%	-38%	-30%	-
Q4 2002-Q4 2003		-71%	-67%	-72%	-50%
Q1 2003-Q1 2004		-85%	-64%	-86%	-100%

TYPE OF REQUEST:

QUARTERLY BREAKDOWN JUL-DEC 2002 AND 2003 BY MONTH AND PERCENTAGE CHANGE BETWEEN MONTH 1 AND MONTH 3 IN EACH QUARTER

		Total	Personal	Non-Personal	Mixed
2002	Jul	25	1	24	0
	Aug	24	3	21	0
	Sept	30	4	26	0
	Jul-Sept	+20%	+300%	+8%	-
	Oct	34	3	30	1
	Nov	46	1	44	1
	Dec	32	5	27	0
	Oct-Dec	-6%	+67%	-10%	-100%
	Jul-Dec	+21%	+400%	+13%	-
	2003	Jul	43	1	42
Aug		4	2	2	0
Sept		8	2	6	0
Jul-Sept		-81%	+100%	-86%	-
Oct		14	2	12	0
Nov		10	1	8	1
Dec		8	0	8	0
Oct-Dec		-43%	-100%	-33%	-
Jul-Dec		-81%	-100%	-81%	-
2004		Jan	5	1	4
	Feb	11	3	8	0
	Mar	8	0	8	0
	Jan-Mar	+60%	-100%	+100%	-

DEPARTMENT OF FINANCE

REQUESTER TYPE

TOTALS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

	Requester Type	Journalists	Business	Oireachtas	Staff	Others
2002	326	147	47	14	5	113
2003	305 (-6%)	171 (+16%)	27 (-43%)	18 (+29%)	7 (+40%)	862 (-27%)
2002						
Q1	90	37	14	6	1	32
Q2	45 (-50%)	13 (-65%)	10 (-29%)	3 (-50%)	0 (-100%)	19 (-41%)
Q3	79 (+76%)	42 (+223%)	11 (+10%)	2 (-33%)	3 (+300%)	21 (+11%)
Q4	112 (+42%)	55 (+31%)	12 (+9%)	3 (+50%)	1 (-67%)	41 (+95%)
2003						
Q1	160 (+43%)	90 (+64%)	13 (+8%)	6 (+100%)	2 (+100%)	49 (+20%)
Q2	58 (-64%)	30 (-67%)	5 (-62%)	6 (-)	1 (-50%)	16 (-67%)
Q3	55 (-5%)	29 (-3%)	7 (+40%)	4 (-33%)	3 (+200%)	12 (-25%)
Q4	32 (-42%)	22 (-24%)	2 (-71%)	2 (-50%)	1 (-67%)	5 (-58%)
2004						
Q1	24 (-25%)	9 (-59%)	6 (+200%)	1 (-50%)	0 (-100%)	8 (+60%)
Q1 2002-Q1 2003	+78%	+143%	-7%	-	+100%	+53%
Q2 2002-Q2 2003	+29%	+131%	-60%	+100%	+100%	-16%
Q3 2002-Q3 2003	-30%	-31%	-36%	+100%	-	-43%
Q4 2002-Q4 2003	-71%	-60%	-83%	-33%	-	-88%
Q1 2003-Q1 2004	-85%	-90%	-54%	-83%	-200%	-84%

OUTCOME OF REQUEST

TOTAL AND PERCENTAGE OF TOTAL

	Total	Granted	Part-Granted	Refused	Transferred	O/S FOI
2002	324	72 (22%)	107 (33%)	43 (13%)	25 (8%)	77 (24%)
Q1	93	25 (27%)	34 (37%)	12 (13%)	2 (2%)	20 (22%)
Q2	48	9 (19%)	7 (15%)	10 (21%)	4 (8%)	18 (38%)
Q3	69	15 (22%)	23 (33%)	4 (6%)	7 (10%)	20 (29%)
Q4	114	23 (20%)	43 (38%)	17 (15%)	12 (11%)	19 (17%)
2003	319	60 (19%)	118 (37%)	45 (14%)	15 (5%)	81 (25%)
Q1	124	20 (16%)	44 (35%)	17 (14%)	9 (7%)	34 (27%)
Q2	94	25 (27%)	32 (34%)	15 (16%)	2 (2%)	20 (21%)
Q3	61	7 (11%)	34 (56%)	7 (11%)	3 (5%)	10 (16%)
Q4	40	8 (20%)	8 (20%)	6 (15%)	1 (3%)	17 (43%)
2004						
Q1	23	5 (22%)	12 (52%)	3 (13%)	3 (13%)	0 (-)

INTERNAL REVIEW APPLICATIONS BY QUARTER AND PERCENTAGE OF DECISIONS IN EACH PERIOD

Internal Review Applications

2002:		2003:		2004:	
Q1	10 (14%)	Q1	12 (15%)	Q1	0 (-)
Q2	3 (12%)	Q2	17 (24%)		
Q3	3 (7%)	Q3	5 (10%)		
Q4	8 (10%)	Q4	0 (-)		

DEPARTMENT OF ENTERPRISE, TRADE AND EMPLOYMENT

TYPE OF REQUEST

TOTAL APPLICATIONS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

		Total	Personal	Non-Personal	Mixed
2002		205	12	187	6
2003		153 (-25%)	16 (+33%)	129 (-31%)	8 (+33%)
2002	Q1	53	2	49	2
	Q2	46 (-13%)	2 (-)	42 (-14%)	2 (-)
	Q3	35 (-24%)	5 (+150%)	28 (-33%)	2 (-)
	Q4	71 (+103%)	3 (-40%)	68 (+143%)	0 (-200%)
	Q1-Q4	+34%	+50%	+39%	-100%
2003	Q1	73 (+3%)	7 (+133%)	63 (-7%)	3 (+300%)
	Q2	45 (-38%)	5 (-29%)	36 (-43%)	4 (+33%)
	Q3	18 (-60%)	3 (-40%)	14 (-61%)	1 (-75%)
	Q4	17 (-6%)	1 (-67%)	16 (+14%)	0 (-100%)
	Q1-Q4	-77%	-86%	-75%	-100%
2004	Q1	14 (-18%)	1 (-)	13 (-19%)	0 (-)
Q1 2002-Q1 2003		+38%	+250%	+29%	+50%
Q2 2002-Q2 2003		-2%	+150%	-14%	+100%
Q3 2002-Q3 2003		-49%	-40%	-50%	-50%
Q4 2002-Q4 2003		-76%	-67%	-76%	-
Q1 2003-Q1 2004		-81%	-86%	-79%	-300%

TYPE OF REQUEST:

QUARTERLY BREAKDOWN JUL-DEC 2002 AND 2003 BY MONTH AND PERCENTAGE CHANGE BETWEEN MONTH 1 AND MONTH 3 IN EACH QUARTER

		Total	Personal	Non-Personal	Mixed
2002	Jul	12	1	10	1
	Aug	11	3	7	1
	Sept	12	1	11	0
	Jul-Sept	-	-	+10%	-100%
	Oct	30	2	28	0
	Nov	22	1	21	0
	Dec	19	0	19	0
	Oct-Dec	-37%	-100%	-32%	-
	Jul-Dec	+58%	-100%	+90%	-100%
2003	Jul	12	2	9	1
	Aug	5	1	4	0
	Sept	1	0	1	0
	Jul-Sept	-80%	-100%	-89%	-100%
	Oct	3	0	3	0
	Nov	11	1	10	0
	Dec	3	0	3	0
	Oct-Dec	-	-	-	-
	Jul-Dec	-75%	-100%	-67%	-100%
2004	Jan	5	0	5	0
	Feb	5	1	4	0
	Mar	4	0	4	0
	Jan-Mar	-20%	-	-20%	-

DEPARTMENT OF ENTERPRISE, TRADE AND EMPLOYMENT

REQUESTER TYPE

TOTALS AND PERCENTAGE CHANGE ON PREVIOUS PERIOD

	Requester Type	Journalists	Business	Oireachtas	Staff	Others
2002	205	77	46	4	6	72
2003	153 (-25%)	52 (-32%)	18 (-61%)	12 (+200%)	9 (+50%)	62 (-14%)
2002						
Q1	53	20	11	2	1	19
Q2	46 (-13%)	11 (-45%)	12 (+9%)	1 (-50%)	0 (-100%)	22 (+16%)
Q3	35 (-24%)	10 (-9%)	9 (-25%)	1 (-)	2 (+200%)	13 (-41%)
Q4	71 (+103%)	36 (+260%)	14 (+56%)	0 (-100%)	3 (+50%)	18 (+38%)
2003						
Q1	73 (+3%)	21 (-42%)	8 (-43%)	6 (+600%)	5 (+67%)	33 (+83%)
Q2	45 (-38%)	14 (-33%)	4 (-50%)	3 (-50%)	3 (-40%)	21 (-36%)
Q3	18 (-60%)	8 (-43%)	2 (-50%)	3 (-)	1 (-67%)	4 (-81%)
Q4	17 (-6%)	9 (+13%)	4 (+100%)	0 (-300%)	0 (-100%)	4 (-)
2004						
Q1	14 (-18%)	3 (-67%)	7 (+75%)	0 (-)	1 (+100%)	3 (-25%)
Q1 2002-Q1 2003	+38%	+5%	-27%	+200%	+400%	+74%
Q2 2002-Q2 2003	-2%	+28%	-67%	+200%	+300%	-5%
Q3 2002-Q3 2003	-49%	-20%	-78%	+200%	-50%	-69%
Q4 2002-Q4 2003	-76%	-75%	-71%	0%	-300%	-78%
Q1 2003-Q1 2004	-81%	-86%	-13%	-600%	-80%	-91%

OUTCOME OF REQUEST

TOTAL AND PERCENTAGE OF TOTAL

	Total	Granted	Part-Granted	Refused	Transferred	O/S FOI
2002	198	38 (19%)	47 (24%)	39 (20%)	9 (5%)	65 (33%)
Q1	55	8 (15%)	19 (35%)	10 (18%)	1 (2%)	17 (31%)
Q2	40	9 (23%)	6 (15%)	7 (18%)	5 (13%)	13 (33%)
Q3	39	10 (26%)	5 (13%)	9 (23%)	2 (5%)	13 (33%)
Q4	64	11 (17%)	17 (27%)	13 (20%)	1 (2%)	22 (34%)
2003	164	45 (27%)	48 (29%)	20 (12%)	3 (2%)	48 (29%)
Q1	68	16 (24%)	17 (25%)	11 (16%)	1 (1%)	23 (34%)
Q2	51	14 (27%)	13 (25%)	8 (16%)	1 (2%)	15 (29%)
Q3	32	12 (38%)	12 (38%)	0 (-)	1 (3%)	7 (22%)
Q4	13	3 (23%)	6 (46%)	1 (8%)	0 (-)	3 (23%)
2004						
Q1	13	3 (3%)	4 (31%)	1 (8%)	0 (-)	5 (38%)

INTERNAL REVIEW APPLICATIONS BY QUARTER AND PERCENTAGE OF DECISIONS IN EACH PERIOD

Internal Review Applications

2002:	2003:	2004:
Q1 4 (11%)	Q1 10 (23%)	Q1 0 (-)
Q2 3 (14%)	Q2 3 (9%)	
Q3 0 (-)	Q3 2 (8%)	
Q4 3 (7%)	Q4 1 (10%)	

APPLICATIONS TO OFFICE OF INFORMATION COMMISSIONER

Total Applications Received

Application	Q102	Q202	Q302	Q402	Q103	Q203	Q303	Q403	Q104
Personal	102	94	77	117	212	302	144	63	59
Non-pers.	58	66	53	61	67	62	141	33	40
Mixed	22	6	14	16	22	34	26	13	32
Total	182	166	144	194	301	398	311	109	131

Applications Received in respect of the 37 Public Bodies Reviewed

All Public Bodies

Quarter Application	Q102	Q202	Q302	Q402	Q103	Q203	Q303	Q403	Q104
	113	102	75	138	236	313	215	79	100

Civil Service Departments

Quarter Application	Q102	Q202	Q302	Q402	Q103	Q203	Q303	Q403	Q104
	80	62	53	101	210	248	179	50	53

Non-Civil Service

Quarter Application	Q102	Q202	Q302	Q402	Q103	Q203	Q303	Q403	Q401
	33	40	22	37	26	65	36	29	47

Department of Finance

Quarter Application	Q102	Q202	Q302	Q402	Q103	Q203	Q303	Q403	Q104
	2	1	2	1	2	3	22*	1	2

* 20 received from one applicant

Department of An Taoiseach

Quarter Application	Q102	Q202	Q302	Q402	Q103	Q203	Q303	Q403	Q104
	3	0	0	1	0	1	1	2	0

Department of Enterprise Trade and Employment

Quarter Application	Q102	Q202	Q302	Q402	Q103	Q203	Q303	Q403	Q104
	2	2	0	0	1	0	3	0	0

Post-Fee Experience: 7 July 2003 - 31 March 2004

Total no. of valid applications:	462
Total no. of invalid applications	105
Invalid because fee not included	14
Applications where a Fee has been received	125
Total amount received	€15,125
Total amount refunded as an overpayment	€200
No. of cases where fee actively sought	185
Non-personal element of "mixed" amended to "personal"	50
No. of cases holding	20

APPENDIX IV

CASE REVIEW

ALL BODIES

ORIGINAL REQUEST

Outcome as a Percentage of Total

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Access Granted	40%	39%	34%	40%	37%	41%	46%	43%
Access Part-Granted	24%	29%	29%	28%	27%	36%	29%	27%
Outside FOI	11%	10%	6%	5%	6%	3%	1%	7%
Withdrawn	8%	3%	12%	7%	8%	6%	7%	12%
Refused	17%	17%	19%	20%	20%	11%	15%	11%
Transferred	-	3%	-	1%	3%	3%	2%	1%
Ongoing	-	-	-	-	1%	1%	-	4%

Decision Analysis

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Decision Issued								
Yes	100%	97%	99%	99%	99%	100%	99%	100%
Within Time								
Yes	88%	78%	75%	77%	77%	74%	74%	73%
Section Quoted								
Yes	78%	89%	89%	87%	84%	88%	81%	96%
Exemptions Explained								
Yes	74%	82%	77%	71%	71%	84%	79%	96%
Applied to Records								
Yes	61%	56%	60%	62%	55%	71%	57%	71%
N/A(s.10)	10%	13%	9%	10%	10%	7%	9%	10%
Total	71%	69%	69%	72%	65%	78%	66%	81%

Exemptions Claimed

Section	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
10	17	18	17	19	26	18	15	10
11	1	0	0	0	0	1	0	0
19	4	6	6	10	12	2	1	3
20	7	1	5	11	13	2	3	2
21	4	6	7	10	15	16	4	5
22	4	1	3	5	10	3	1	2
23	2	7	7	4	8	14	3	5
24	2	2	3	0	4	1	3	1
26	8	7	8	5	5	9	2	7
27	5	3	7	8	9	9	6	2
28	12	17	23	16	26	22	11	14
30	0	0	0	0	0	0	0	0
31	0	0	4	4	0	0	2	0
46	5	2	2	4	5	4	6	4

Selected Exemptions

Percentage of Requests Refused/Part Granted

Where Exemptions Quoted

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
19	9%	11%	11%	18%	15%	4%	2%	11%
20	15%	2%	9%	20%	16%	4%	7%	7%
24	4%	4%	5%	-	5%	2%	7%	4%

Search and Retrieval Fees

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Charging Occurrences	6	2	1	2	4	7	1	7
Withdrawn after Notification of S&R	2	0	0	0	1	1	0	1
Total Paid (€)	1199	160	1599	1653	1617	1796	1570	2795

Search and Retrieval Occurrences as a percentage of Non-Personal Requests

	2002			2003		
	Non-Personal Requests	S&R Charges	Percentage	Non-Personal Requests	S&R Charges	Percentage
Dept of CM&NR	265	8	3.02%	228	3	1.32%
Dept of ET&E	193	20	10.36%	137	24	17.52%
Dept of Finance	299	20	6.69%	281	30	10.68%
Dept of Foreign Affairs	115	1	0.87%	73	2	2.74%
Dept of Health & Children	372	8	2.15%	302	23	7.62%
Dept of Justice E&LR	317	21	6.62%	274	31	11.32%
Dept of Social & FA	85	2	2.35%	77	1	1.30%
Dept of an Taoiseach	137	8	5.84%	137	4	2.92%
Mater Hospital	76	1	1.31%	85	17	20.00%
Adelaide & Meath Hospital	54	1	1.85%	79	8	10.13%
Southern Health Board	96	13	13.54%	71	3	4.23%
ECAHB	72	1	1.39%	71	1	1.41%
Mayo Co. Co.	89	2	2.25%	90	2	2.22%
UCD	72	0	-	68	0	-
H&SA	237	3	1.27%	282	6	2.13%
Dublin City Council	229	7	3.06%	217	5	2.30%
Total	2554	116	4.54%	2485	160	6.44%

INTERNAL REVIEW

Decision Analysis

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Application								
Yes	10%	17%	12%	11%	10%	11%	8%	8%
Decision Issued								
Yes	78%	82%	100%	100%	86%	75%	86%	100%
Within Time								
Yes	57%	43%	75%	82%	58%	100%	100%	80%
Section Quoted								
Yes	57%	57%	58%	82%	58%	67%	67%	100%
Exemptions Explained								
Yes	57%	50%	50%	64%	50%	56%	67%	100%
Applied to Records								
Yes	57%	43%	33%	64%	50%	56%	33%	40%
N/A(s.10)	-	7%	8%	-	-	11%	50%	40%
Total	57%	50%	41%	64%	50%	67%	83%	80%

Exemptions Claimed

Section	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
10	0	1	0	2	1	3	3	2
11	0	0	0	0	0	0	0	0
19	1	6	0	1	0	1	0	0
20	1	1	0	2	0	0	0	0
21	1	1	0	5	1	1	0	0
22	0	2	0	0	2	0	0	0
23	0	1	0	1	2	0	0	2
24	0	0	0	0	0	0	0	1
26	0	1	3	2	1	0	0	2
27	1	3	1	0	0	0	0	1
28	2	2	6	4	6	1	1	1
30	0	1	0	0	0	0	0	0
31	0	0	0	1	0	0	0	0
46	1	3	0	0	1	0	0	0

CASES APPEALED TO OIC

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Percentage of IR Applications On Basis of Non- Reply	22%	29%	25%	-	29%	17%	29%	20%
	-	-	-	-	-	-	-	-

CASE REVIEW

CIVIL SERVICE

ORIGINAL REQUEST

Outcome as a Percentage of Total

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Access Granted	34%	33%	36%	35%	27%	37%	43%	33%
Access Part-Granted	23%	33%	30%	31%	31%	33%	37%	30%
Outside FOI	14%	14%	6%	7%	8%	5%	2%	13%
Withdrawn	10%	3%	11%	5%	8%	8%	4%	15%
Refused	19%	14%	17%	22%	23%	10%	11%	10%
Transferred	-	3%	-	-	4%	7%	2%	-
Ongoing	-	-	-	-	-	-	-	5%

Decision Analysis

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Decision Issued								
Yes	100%	95%	98%	98%	99%	100%	98%	100%
Within Time								
Yes	85%	67%	72%	77%	73%	79%	78%	69%
Section Quoted								
Yes	83%	85%	84%	90%	82%	85%	82%	94%
Exemptions Explained								
Yes	79%	79%	68%	74%	70%	77%	77%	94%
Applied to Records								
Yes	59%	50%	48%	62%	55%	65%	64%	81%
N/A(s.10)	15%	16%	7%	13%	11%	6%	7%	3%
Total	74%	66%	55%	75%	66%	71%	71%	84%

Exemptions Claimed

Section	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
10	11	12	5	16	16	6	6	2
11	1	0	0	0	0	1	0	0
19	4	6	6	10	12	2	1	3
20	7	1	4	11	12	2	3	2
21	3	4	3	9	10	5	3	3
22	3	1	3	3	9	2	1	1
23	1	3	2	1	4	3	1	3
24	2	2	3	0	4	1	3	1
26	5	4	4	3	3	5	2	6
27	3	3	6	5	6	2	4	2
28	8	9	10	10	16	9	7	8
30	0	0	0	0	0	0	0	0
31	0	0	4	4	0	0	2	0
46	3	2	2	1	4	2	3	3

Selected Exemptions

Percentage of Requests Refused/Part Granted

Where Exemptions Quoted

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
19	14%	18%	19%	26%	21%	8%	5%	19%
20	24%	3%	13%	28%	21%	8%	14%	13%
24	7%	6%	10%	-	7%	4%	14%	6%

Search and Retrieval Fees

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Charging Occurrences	5	2	1	2	3	3	0	6
Withdrawn after Notification of S&R	2	0	0	0	1	1	0	1

INTERNAL REVIEW

Decision Analysis

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Application								
Yes	11%	22%	9%	12%	8%	17%	5%	14%
Decision Issued								
Yes	67%	77%	100%	100%	71%	63%	50%	100%
Within Time								
Yes	50%	30%	60%	75%	40%	100%	100%	75%
Section Quoted								
Yes	75%	60%	60%	88%	60%	100%	-	100%
Exemptions Explained								
Yes	75%	50%	40%	63%	60%	80%	-	100%
Applied to Records								
Yes	75%	50%	20%	63%	40%	80%	-	50%
N/A(s.10)	-	-	20%	-	20%	-	100%	25%
Total	75%	50%	40%	63%	60%	80%	100%	75%

Exemptions Claimed

Section	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
10	0	0	0	1	0	2	0	1
11	0	0	0	0	0	0	0	0
19	1	6	0	1	0	1	0	0
20	1	1	0	2	0	0	0	0
21	1	1	0	4	0	1	0	0
22	0	2	0	0	1	0	0	0
23	0	1	0	0	0	0	0	2
24	0	0	0	0	0	0	0	1
26	0	0	0	1	0	0	0	2
27	1	3	1	0	0	0	0	1
28	1	2	1	3	1	1	0	1
30	0	1	0	0	0	0	0	0
31	0	0	0	1	0	0	0	0
46	1	3	0	0	0	0	0	0

CASES APPEALED TO OIC

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Percentage of IR Applications	17%	38%	40%	-	14%	25%	-	25%
On Basis of Non- Reply	-	-	-	-	-	-	-	-

CASE REVIEW

OTHER BODIES

ORIGINAL REQUEST

Outcome as a Percentage of Total

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Access Granted	50%	48%	32%	48%	52%	46%	48%	54%
Access Part-Granted	25%	22%	26%	21%	20%	39%	22%	23%
Outside FOI	7%	4%	6%	2%	3%	-	-	-
Withdrawn	5%	2%	13%	10%	9%	3%	10%	9%
Refused	14%	22%	23%	17%	14%	12%	18%	11%
Transferred	-	2%	-	2%	1%	-	2%	3%
Ongoing	-	-	-	-	1%	2%	-	3%

Decision Analysis

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Decision Issued								
Yes	100%	100%	100%	100%	100%	100%	100%	100%
Within Time								
Yes	92%	93%	79%	72%	82%	70%	70%	77%
Section Quoted								
Yes	71%	95%	96%	81%	88%	90%	80%	100%
Exemptions Explained								
Yes	65%	85%	88%	63%	75%	90%	80%	100%
Applied to Records								
Yes	65%	65%	73%	63%	54%	77%	50%	58%
N/A(s.10)	3%	10%	12%	6%	10%	9%	11%	16%
Total	68%	75%	85%	69%	64%	88%	61%	74%

Exemptions Claimed

Section	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
10	6	6	12	3	10	12	9	8
11	0	0	0	0	0	0	0	0
19	0	0	0	0	0	0	0	0
20	0	0	1	0	1	0	0	0
21	1	2	4	1	5	11	1	2
22	1	0	0	2	1	1	0	1
23	1	4	5	3	4	11	2	2
24	0	0	0	0	0	0	0	0
26	3	3	4	2	2	4	0	1
27	2	0	1	3	3	7	2	0
28	4	8	13	6	10	13	4	6
30	0	0	0	0	0	0	0	0
31	0	0	0	0	0	0	0	0
46	2	0	0	3	1	2	3	1

Selected Exemptions

Percentage of Requests Refused/Part Granted

Where Exemptions Quoted

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
19	-	-	-	-	-	-	-	-
20	-	-	4%	-	4%	-	-	-
24	-	-	-	-	-	-	-	-

Search and Retrieval Fees

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Charging Occurrences	1	0	0	0	1	4	1	1
Withdrawn after Notification of S&R	0	0	0	0	0	0	0	0

INTERNAL REVIEW

Decision Analysis

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Application								
Yes	8%	10%	16%	8%	12%	7%	11%	3%
Decision Issued								
Yes	100%	100%	100%	100%	100%	100%	100%	100%
Within Time								
Yes	67%	75%	86%	100%	71%	100%	100%	100%
Section Quoted								
Yes	33%	50%	57%	67%	57%	25%	80%	100%
Exemptions Explained								
Yes	33%	50%	57%	67%	43%	25%	80%	100%
Applied to Records								
Yes	33%	25%	43%	67%	57%	25%	40%	0%
N/A(s.10)	0%	25%	0%	0%	0%	25%	40%	100%
Total	33%	50%	43%	67%	57%	50%	80%	100%

Exemptions Claimed

Section	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
10	0	1	0	1	1	1	3	1
11	0	0	0	0	0	0	0	0
19	0	0	0	0	0	0	0	0
20	0	0	0	0	0	0	0	0
21	0	0	0	1	1	0	0	0
22	0	0	0	0	1	0	0	0
23	0	0	0	1	2	0	0	0
24	0	0	0	0	0	0	0	0
26	0	1	3	1	1	0	0	0
27	0	0	0	0	0	0	0	0
28	1	0	5	1	5	0	1	0
30	0	0	0	0	0	0	0	0
31	0	0	0	0	0	0	0	0
46	0	0	0	0	1	0	0	0

CASES APPEALED TO OIC

	<u>Q1 '02</u>	<u>Q2 '02</u>	<u>Q3 '02</u>	<u>Q4 '02</u>	<u>Q1 '03</u>	<u>Q2 '03</u>	<u>Q3 '03</u>	<u>Q4 '03</u>
Percentage of IR Applications	33%	-	14%	-	43%	-	40%	-
On Basis of Non- Reply	-	-	-	-	-	-	-	-

CASE REVIEW

ALL BODIES Q4 2002/2003

ORIGINAL REQUEST

Outcome as a Percentage of Total

	<u>Q4 '02</u>	<u>Q4 '03</u>
Access Granted	36%	35%
Access Part-Granted	26%	27%
Outside FOI	6%	6%
Withdrawn	11%	9%
Refused	18%	17%
Transferred	4%	5%
Ongoing	-	3%

Decision Analysis

	<u>Q4 '02</u>	<u>Q4 '03</u>
Decision Issued		
Yes	99%	99%
Within Time		
Yes	79%	81%
Section Quoted		
Yes	83%	84%
Exemptions Explained		
Yes	74%	75%
Applied to Records		
Yes	57%	60%
N/A(s.10)	10%	14%
Total	67%	80%

Exemptions Claimed

Section	<u>Q4 '02</u>	<u>Q4 '03</u>
10	19	24
11	0	0
19	4	5
20	9	9
21	14	12
22	0	3
23	10	6
24	1	3
26	6	10
27	8	3
28	18	17
30	0	0
31	3	4
46	6	11

Search and Retrieval Fees

	<u>Q4 '02</u>	<u>Q4 '03</u>
Charging Occurrences	9	10
Withdrawn after Notification of S&R	2	0

INTERNAL REVIEW**Decision Analysis**

	<u>Q4 '02</u>	<u>Q4 '03</u>
Application		
Yes	14%	8%
Decision Issued		
Yes	100%	60%
Within Time		
Yes	78%	83%
Section Quoted		
Yes	61%	17%
Exemptions Explained		
Yes	50%	17%
Applied to Records		
Yes	44%	17%
N/A(s.10)	22%	-
Total	66%	17%

CASES APPEALED TO OIC

Percentage of IR Applications	33%	10%
On Basis of Non- Reply	-	-

CASE REVIEW

CIVIL SERVICE Q4 2002/2003

ORIGINAL REQUEST

Outcome as a percentage of Total

	<u>Q4 '02</u>	<u>Q4 '03</u>
Access Granted	31%	32%
Access Part-Granted	28%	32%
Outside FOI	8%	9%
Withdrawn	18%	9%
Refused	11%	18%
Transferred	5%	-
Ongoing	-	4%

Decision Analysis

	<u>Q4 '02</u>	<u>Q4 '03</u>
Decision Issued		
Yes	98%	98%
Within Time		
Yes	75%	75%
Section Quoted		
Yes	84%	87%
Exemptions Explained		
Yes	71%	74%
Applied to Records		
Yes	58%	61%
N/A(s.10)	9%	13%
Total	67%	74%

Exemptions Claimed

Section	<u>Q4 '02</u>	<u>Q4 '03</u>
10	6	10
11	0	0
19	4	5
20	6	8
21	5	6
22	0	3
23	1	1
24	1	3
26	2	7
27	4	3
28	7	5
30	0	0
31	3	4
46	3	7

Selected Exemptions

Percentage of Requests Refused/Part Granted

Where Exemptions Quoted

	<u>Q4 '02</u>	<u>Q4 '03</u>
19	13%	13%
20	19%	21%
24	3%	8%

Search and Retrieval Fees

	<u>Q4 '02</u>	<u>Q4 '03</u>
Charging Occurrences	7	8
Withdrawn after Notification of S&R	2	0

INTERNAL REVIEW

Decision Analysis

	<u>Q4 '02</u>	<u>Q4 '03</u>
Application		
Yes	14%	6%
Decision Issued		
Yes	100%	25%
Within Time		
Yes	75%	100%
Section Quoted		
Yes	75%	100%
Exemptions Explained		
Yes	50%	100%
Applied to Records		
Yes	25%	100%
N/A(s.10)	38%	-
Total	63%	100%

CASES APPEALED TO OIC

Percentage of IR Applications	25%	-
On Basis of Non- Reply	-	-