



MONTHLY ROUNDUP

Volume 1, Issue 8

October 2018

Welcome!

Inside this Monthly Roundup, you will find a summary of one of the Information Commissioner's latest decisions and statistics for our cases.

We are also excited to share information about our new ICO Annual Return Package to support compliance with the PATI Act 2010. Keep reading for details about this new project and important upcoming dates.

As always, we hope this information serves as a helpful resource for all involved in PATI work.

Requests to receive the ICO's Monthly Roundup or to be removed from this email list can be sent to info@ico.bm.

Let Us Know Your Thoughts . . .

If you have suggestions of topics you would like the ICO to address in guidance or other outreach, don't hesitate to reach out! We'd love to hear from you!

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Access to public information is a check on the government's power. An informed citizenry is one of three cornerstones of our democracy. Without information about what our government is doing, we can't make assessments about the decisions our government is making.
– Sandra Chance

Case Updates

In October, the Information Commissioner received eight new applications - the highest number of applications for review we have received in a single month.

We also closed a total of three cases. One case was resolved with the parties and closed. In two cases, the Information Commissioner issued a decision addressing a public authority's failure to decide a request for an internal review. Her decisions can be found at www.ico.bm/decisions.

ICO Statistics as of 31 October 2018

Total
Applications: 90

Pending
Investigations: 40

Pending
Validation: 1

Decisions: 19

Resolved: 11

Invalid: 15

Abandoned: 7

Judicial Review: 1

Remember to let your replacement know about that pending PATI request! In [Decision 08/2018](#), [Department of Public Lands and Buildings](#), the Acting Information Commissioner discussed the need to ensure that handover memos and transition plans ensure that new staff with PATI responsibilities are aware of all pending PATI requests.

The Applicant had made a PATI request for records related to a foreshore license application. The Department provided an initial decision that withheld some of the records that fell within the PATI request. The Applicant sought an internal review by the head of the authority. At the time, the Ministry did not have a substantive Permanent Secretary. For about six months, a number of civil servants provided Acting coverage for this role at various times. As a result, the request for an internal review fell through the cracks, so the Applicant never received an internal review decision. The applicant sought an independent review by the Information Commissioner.

In [Decision 08/2018](#), the Acting Information Commissioner found that the Department had failed to issue an internal review decision within the statutory timeframes. She did acknowledge that the Department issued the internal review decision during the ICO's investigation.

[Decision 08/2018](#) reminds public authorities that PATI obligations fall to the public authority, not just the person currently serving as the Information Officer or head of authority. Keeping pending PATI matters in role transition plans and handover memos can avoid losing track of PATI request responsibilities (and avoid an investigation by the ICO).

*The free access to
information is not
a privilege, but a
necessity for any
free society.
– Ed Asner*

A special Thank You to all that attended the ICO's special reception for Information Officers on Right to Know Day.



FRIENDLY REMINDER:

2018 Public Authority Statistics

The submission of 2018 Public Authority Statistics is just around the corner.
Are you tracking all of your PATI-related requests from 2018?
If you are a new Information Officer, feel free to review the 2017 Public Authorities' Statistics which were published in our 2017 Annual Report.
Copies of our Annual Reports are available on www.ico.bm.

SAVE THE DATE:

Information Commissioner's Quarterly Briefing Wednesday, 5 December 2018

Topics will include:
ICO Annual Return Package and standards for applying
the **section 37 exemption** when **disclosure is prohibited by other legislation**

RSVP will be required.
Registration details will be emailed to public authorities.

Future Information Commissioner Quarterly Briefings:
14 March 2019

Is Your Public Authority Compliant with the PATI Act 2010?

Having an effective compliance process is crucial for best practices in any government, country and business community. In the context of the Information Commissioner's Office ('ICO'), compliance means public authorities' duty to comply with the requirements of the Public Access to Information Act 2010 ('the Act'). But what are public authorities required to be compliant with?

The Community is aware that public authorities must respond to a PATI request for records. Did you know that the PATI Act also requires public authorities to take other steps to promote transparency and openness about their activities, decision making, and spending? This includes responsibilities set out in Part 2 of the Act, such as publishing Information Statements and gazetting contracts with a value over \$50,000.

Specifically, Section 5 of the Act requires public authorities to publish an Information Statement (see more on this below). Section 6 of the PATI Act lists other information that public authorities must either proactively publish for the public or automatically provide when someone asks for it.

Section 58(3) of the Act also states that public authorities must submit their annual PATI statistics to the Information Commissioner for inclusion in her annual report. This has been a requirement since the Act came into effect on 1 April 2015. This data shows the public and public authorities the disposition of the requests.

In order to support Public Authorities' understanding of the 2018 Annual Return process, the ICO will be sending out the new ICO Annual Return package by **Friday, November 16, 2018**. The completed package should be returned to the ICO by **Friday, January 11, 2019**.

The Annual Return package will include:

- the 2018 Statistics Form,
- Information Statement Checklist Form, and
- the Provision of Other Information Form.

Each form provides cross-references to the relevant sections of the Act, thereby enhancing public authorities' understanding and knowledge of the Act. The compliance team at the ICO will also be available to answer questions about the Annual Return, if needed.

Since earlier this year, the Information Commissioner has been holding quarterly briefings to inform Public Authorities of the Act and to provide guidance on how Public Authorities can comply with its provisions.

At the next Information Commissioner's Quarterly Briefing, on **Wednesday, December 5, 2018**, one of our focuses will be on the new ICO Annual Return package. In addition to this scheduled briefing, the ICO is offering to conduct small group sessions from late November through to mid-December to explain to public authorities what is required for completion and submission of their returns. If you are a Head of Authority, Head of Department, Chairman or Chief Executive Officer of a public authority, and would like to pre-arrange a small group session with the ICO compliance team, please email stats@ico.bm.

QUICK ICO FACT: 48% of Bermuda's public authorities have gazetted the locations for their Information Statement.

What Can You Start to Do Now?

To get a head start on your Public Authority's compliance with the Act, review section 5 of the PATI Act to ensure that your Authority's Information Statement is up-to-date and contains all of the required information. Your Public Authority should update their Information Statement if the following has occurred:

- Your physical address has changed
- Your web address where your information statement is published has changed.
- Your Information Officer or Alternate Information Officer has changed or a new Alternate Information Officer has been added
- Your Head of Public Authority has changed
- Your classes of records held or decision making documents have changed
- Changes to organizational structure
- Any other information has been amended

Public Authorities should ensure that the location of their Information Statement has been gazetted in the Official Gazette. Keep in mind that as of November 1, 2018, the Official Gazette moved to the government website at www.gov.bm.

