



# MONTHLY ROUNDUP

Volume 1, Issue 4

April/May 2018

## Welcome!

Inside this Monthly Roundup, you will find a summary of our activity during the first months of our fiscal year. For us, April is the wrap up to the last fiscal year and our start to a busy new year. We combined our updates for April and May into one roundup.

The Information Commissioner issued two new decisions, resolved a third case, and closed one invalid application. Have a read of the Roundup to learn more about them! 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](mailto:info@ico.bm).

*"The duty to assist [requesters in section 12 of the PATI Act] is a fundamental duty that supports the right to access public information and stands separate from other obligations imposed by the Act."*

*[Decision 04/2018 Board of Immigration](#), paragraph 16 of the decision*

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## 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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## Decision Issued

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During April and May, the Information Commissioner issued two decisions. Both involved important points about how public authorities should handle PATI requests. Her decisions can be found at [www.ico.bm](http://www.ico.bm).

**When can a public authority deny a request because it will be too much work?** The Commissioner considered this question, and others, in [Decision 03/2018](#) *Department of Health*. The Department of Health refused records related to inspections for daycare centres and childcare providers because it would take too much time to retrieve them all. The Department decided this would interfere too much with its other work.

The Commissioner annulled the Department's decision and required it process the request. A public authority can't deny a request as too burdensome unless it first offers to help a requester change the request so it takes less work. As a public authority, remember talking to a PATI requester early on is often required—and almost always helpful!

In [Decision 03/2018](#), the Commissioner also went on to decide that it would not be too burdensome to find and process the records. Spending 3 working days during the 6- to 12-week period for responding to a request was reasonable. In this case the responsive records were kept in a manner that made their retrieval more challenging. However, this didn't justify denying the public access to the important information held by the Department.

PATI is a new law that takes work when managing requests, but the right to know is important for keeping people informed!

**Should a public authority offer to be helpful? Definitely yes!** In [Decision 04/2018](#) *Board of Immigration*, the Commissioner reminded public authorities of the duty to assist requesters before and after a PATI request is filed. The requester had asked for meeting minutes. The Board didn't have anything called 'meeting minutes' and denied the request. The Board documents its decisions on 'Board Sheets'. As a result, the Commissioner required the Board to explain to the requester what records it has and re-process the request.

Public authorities best know what records they have, and PATI requesters know what they are looking for—talk about it! It's part of the authority's duty to assist, as stated in section 12 of the PATI Act. Overly-narrow views of a PATI request contravenes the aim of the PATI Act to put public information in the public's hands as much as possible, within the provisions of the Act.

### ICO Statistics as of 31 May 2018

Total  
Applications: 72

Pending  
Investigations: 33

Decisions: 14

Resolved: 9

Invalid: 12

Abandoned: 4

## Resolution

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Informal resolution is a great outcome for all parties, but resolution only works if we remember that the PATI Act creates a statutory right of access to records. Therefore, to be acceptable to the Information Commissioner, the outcome of any informal resolution cannot reduce or limit the statutory rights enjoyed by a person who applies for access to such records.

- **Can parties work together early on?** The PATI Act requires public authorities to try to understand what the requester is asking for. The best way to do this is to ask the requester about what they want, and to do this early in the process. Getting clarification from the requester may seem like a lot of work in the beginning, but it may lead to a speedier satisfaction of the request. It may also reduce the chance of the Information Commissioner reviewing a public authority's decision. A win-win for everyone!

In May, the ICO resolved a case involving a request for personnel records and employment practices information. The authority had refused the request using a number of exemptions, including the personal information exemption.

During the ICO's investigation, we learned that the requester didn't want anyone's personal information and was happy to have just statistical information. The ICO facilitated a resolution with the public authority compiling the statistical information for the requester. The requester was happy with it and withdrew the application for a review by the Commissioner.

In this case, the public authority had not located the records or talked to the requester before refusing the request. It was not until the ICO investigation commenced that any of these steps occurred. The process was a good reminder for the public authority to find the records and talk to the requester in the beginning the next time it receives a PATI request.

Remember, trying to satisfy a request in the beginning may save time and effort in the long run—try working with the requester to achieve this. It's also part of the duty to assist in section 12 of the PATI Act.

## The PATI Act in the news

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**No background checks on betting shops**, *Royal Gazette*, 16 May 2018  
Meeting minutes released from the Betting Licensing Authority allowed the public to better understand what is done before betting licenses are issued and concerns raised by the paper's investigation.

Visit [www.ico.bm](http://www.ico.bm) for more information.