Information Commissioner's Office

MONTHLY ROUNDUP

Volume II, Issue 2 February 2019

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Article 19, United Nations Universal Declaration of Human Rights

WELCOME!

The Information Commissioner's Office welcomes you to the next issue of our Monthly Roundup!

Our Monthly Roundup benefits anyone who would like to learn more about the work of the Information Commissioner's Office, including Information Officers, Heads of Public Authorities, members of the public who use the PATI Act, members of the legal community, and other stakeholders in our community.

As always, inside this Monthly Roundup, you will find:

- A summary of the Information Commissioner's latest decisions
- Statistics for our cases
- Details about our presentations and outreach

Have you been wondering whether an organisation is a public authority? In this issue, we take a look at this common query.

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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DECISIONS ISSUED

In February 2019, the Information Commissioner received 2 new applications and issued five decisions. Her decisions can be found at www.ico.bm/decisions. Highlights from the decisions include:

Want to learn more about the personal information exemption?

In Decision 02/2019, Office of the Governor the Information Commissioner discussed various types of personal information found in records related to the recruitment process for the Director of Public Prosecutions. In particular, personal information discussed in this decision included the personal information related to individuals under consideration for the position, individuals performing public functions or responsibilities, and other individuals.
Read the decision to learn what questions to ask when considering how the personal information exemption applies to these categories.

Can a public authority close any gaps in complying with the PATI Act during the Commissioner's review? YES!

Sometimes a public authority recognises that its initial search for records had some gaps and is willing to engage in a facilitated resolution during the review to complete a reasonable search. The Applicant in Decision 05/2019, Bermuda Hospitals Board, asked for records relating to safety events at the King Edward VII Memorial Hospital. In the Information Commissioner's review, the Applicant challenged the search carried out by the Board. The parties entered into a facilitated resolution and the Board's additional searches led to the identification of more responsive records, some of which were disclosed to the Applicant. The Applicant was satisfied and the Information Commissioner expressed appreciation to the Board for its efforts. A win-win!

Remember, PATI requesters have a right to an internal review decision within the timelines.

In Decision 03/2019, Bermuda Casino Gaming Commission (BCGC), the Applicant made a PATI request for records related to betting shops and had requested an internal review of the BCGC's initial response. The Information Commissioner found that the BCGC failed to issue an internal review decision within the statutory timeframes. The Information Commissioner ordered the BCGC to issue an internal review decision within six weeks.

ICO Statistics as of 28 February 2019

Total Applications: 101

Pending Investigations: 36

Pending Validation: 1

Decisions: 30*

Resolved: 11

Invalid: 16

Abandoned: 7

* One decision is under judicial review

Information Commissioner's Office

DECISIONS ISSUED, CONT.

But can a public authority still issue its internal review decision during the Information Commissioner's review? YES!

In Decision 04/2019, Bermuda Casino Gaming Commission (BCGC), the Applicant made a PATI request for records related to correspondence with the National Anti-Money Laundering Committee (NAMLC) and had requested an internal review of the BCGC's initial response. The Information Commissioner found that the BCGC failed to issue an internal review decision within the statutory timeframes. The Information Commissioner acknowledged, however, that the BCGC issued the internal review decision during the Information Commissioner's Office's investigation. The BCGC was not ordered to take any further steps by the Information Commissioner.

RECENT INFORMATION COMMISSIONER PRESENTATIONS

Bermuda Bar Association, Update on Recent Information Commissioner's Decisions, 13 February 2019

The Information Commissioner presented a CLE program for the Bermuda Bar Association on 13 February 2019 that provided an overview of the 2018 Information Commissioner's Decisions. Thirteen decision were issued last year that included nine substantive decisions and four failure-to-decide cases. The Information Commissioner reviewed the tests and standards that were set in those decisions. These involved the personal information exemption, administrative denials for burdensome requests, the duty to assist a requester, the exemption when disclosure is prohibited by other legislation, and the exemption for legal professional privilege. One attendee felt that the Commissioner delivered an "Excellent presentation. Once of the best I have attended."

St. George's Parish Council Annual General Meeting, 20 February 2019

The Information Commissioner was the guest speaker at the St. George's Parish Council's Annual General Meeting on 20 February. Her presentation, *"I Want to Know!" The PATI Act & You* shared with the audience how to make effective PATI requests and the importance of the right to know for citizen empowerment when engaging with public authorities. The audience had a number of questions about using the Act and discussed how public authorities' practices were developing under the PATI Act from the perspective of PATI requesters and of individuals who were part of public authorities.

VISIT WITH ELIZABETH DOLAN, SENIOR INVESTIGATOR FROM IRELAND ICO

For the last two weeks of February, the ICO hosted a visit from Elizabeth Dolan, a Senior Investigator from the Ireland ICO. The visit was an opportunity for dialogue, collaboration, and cross-training between our two offices. "Bermuda and Ireland have very similar access to information laws," explained IC Gutierrez. "Ms. Dolan has been a vibrant, informative and extremely knowledgeable colleague to have visit. Our collaboration has given us an opportunity to discuss improvements in our investigation processes and the challenges faced by Commissioner's offices". Reflecting on her visit and interactions with this ICO team, Ms. Dolan says "I have been struck by the common challenges faced by both Offices despite the differences in scale and the fact that we have had freedom of information laws in Ireland for 21 years. I have learned a lot in my short time here, enjoyed a warm welcome from all at the ICO and taken the opportunity to explore fascinating Bermuda!"

ARE YOU WONDERING IF AN ORGANISATION IS A PUBLIC AUTHORITY?

Do you know where to look to determine if an organisation is a public authority that can receive a PATI request? Check out the Schedule to the PATI Act 2010. It lists some public authorities by name. It also explains that public authorities include organisations that are:

- Established by statutory provision and carry out functions of a government or quasi-governmental nature;
- Are owned or controlled by the Government; or
- Are substantially funded by monies authorized by the Legislature.

HAVE A LOOK!

We have recently revamped and relaunched the Public Authorities listing on our website! You can download PDFs of group listings of public authorities by their associated Ministry.

Click **HERE** to check it out.
Is the listing correct for your Public Authority?
If not, please forward amendments to stats@ico.bm.
If you would like an excel spreadsheet of a listing, please send your request to stats@ico.bm.

SAVE THE DATE

INFORMATION COMMISSIONER'S QUARTERLY BRIEFING

Thursday, 7 March 2019
Topic: Application of the personal information exemption in section 23
RSVP is required.
Registration details have been emailed to public authorities.

UPCOMING PRESENTATIONS

The Media Council
Media and the PATI Act
Tuesday, 5 March 2019

ASW Law
International Women's Day Panel
Friday, 8 March 2019

I Want To Know! The PATI Act & You
Construction Safety Council Conference
Thursday, 28 March 2019

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If you would like to invite the Information Commissioner to make a presentation on public access to information under the PATI Act, please email us at info@ico.bm

ALPHABET SOUP

PATI - Public Access to Information
PATI Act - Public Access to Information Act 2010
ICO - Information Commissioner's Office
IC - Information Commissioner

Information Commissioner's Office