

29 December 2020

To: All Media

FOR IMMEDIATE RELEASE

Information Commissioner issued Decision 17/2020

Hamilton, Bermuda. On 21 December 2020, Information Commissioner Gitanjali Gutierrez issued [Decision 17/2020](#), Office of the Clerk of the Legislature. In this Decision, the Information Commissioner addressed the parliamentary privilege exemption for the first time.

[Decision 17/2020](#) considered an internal review decision issued by the Office of the Clerk of the Legislature (Legislature) in response to a PATI request asking for records relating to the work of the Parliamentary Joint Select Committee 'Examining the Events of the 2 December 2016 Incident at the House of Assembly'. The Legislature disclosed some records to the Applicant, but denied access to most of the responsive records under section 36(b) of the PATI Act, which allows public authorities to withhold public records if disclosure would be an infringement of parliamentary privilege.

In this Decision, the Information Commissioner explained that a key aspect of the constitutional doctrine of parliamentary privilege is each House's 'exclusive cognisance' of its own affairs. This means that each House has the right to manage its own affairs and to exercise sole jurisdiction over its own proceedings. The parliamentary privilege exemption in the PATI Act protects this exclusive cognisance by recognising that each House of Parliament has the right to control publication of its own proceedings.

Although the Information Commissioner found in [Decision 17/2020](#) that the Legislature was correct to deny access to the responsive records under the parliamentary privilege exemption for the specific PATI request at issue, she emphasised that not every record relating to Parliament will fall within the parliamentary privilege exemption. Bermuda's Parliament has included the Legislature as one of the public authorities in the Schedule to the PATI Act. The exemption in section 36(b) does not apply to records held by the Legislature if disclosure would not be an infringement to parliamentary privilege.

Finally, the Information Commissioner emphasised that under the doctrine of parliamentary privilege, Parliament is accountable to its collective conscience, and ultimately, to the public who elect its members.

[Decision 17/2020](#) can be accessed online at www.ico.bm.

###

Editor's Notes:

The Information Commissioner's Office (ICO) is working remotely until Monday, 4 January 2021. During this time, the public and public authorities may reach the ICO by contacting 543-37000 or info@ico.bm during regular business hours.

The ICO is an independent public office responsible for promoting the use of and overseeing compliance with the Public Access to Information (PATI) Act 2010. The PATI Act gives the public a right to access records held by public authorities, subject to listed exemptions and administrative grounds for denial of access. Individuals who are dissatisfied with the response of a public authority may seek a review by the Information Commissioner. The Information Commissioner shall investigate and the decisions by the Information Commissioner are legally binding.

Further information about the ICO is available at www.ico.bm.