Information Commissioner's Office

MONTHLY ROUNDUP

Volume 1, Issue 5 June/July 2018

Welcome!

Inside this Monthly Roundup, you will find a summary of one of the Information Commissioner's latest decisions, a synopsis of the Information Commissioner's meeting in Nova Scotia with small jurisdiction Commissioners, and highlights from the first Information Commissioner's Briefing for public authorities in July.

We are please to announce that our 2016 Annual Report was tabled in June and our 2017 Annual Report tabled in July. 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**.

"The right to access information is an opportunity for those who are governed to hold accountable those who govern . . ."

Gitanjali Gutierrez, Information Commissioner 2017 Annual Report

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

In July, the Commissioner issued two decisions. Her decisions can be found at **www.ico.bm**. The decisions are important because they shows how the Commissioner has interpreted provisions of the PATI Act. This can serve as guidance going forward. The decision is discussed below.

Your records, my records, our records—which public authority has responsibility for the records? The Information Commissioner discussed this question in **Decision 05/2018** Charity Commissioners. The Applicant had made a request for records regarding Preserve Marriage and OutBermuda, including the objections to their charitable status applications. During the ICO's investigation, the Charity Commissioners disclosed the responsive records, except for personal information. Though this satisfied the Applicant's PATI request, the Applicant exercised their right to have the Information Commissioner issue a decision because of the Charity Commissioner's delay in providing access to the records it had decided to release.

The Information Commissioner observed that the lack of a records management policy—combined with the failure to issue an initial decision notice—created confusion in the handling of the request. This contributed to the delay in disclosure of the records. The Charity Commissioners and Registry General also share an Information Officer. It was unclear from the submissions received from both public authorities whether only the Registry General or both public authorities had control over the records. The Information Commissioner emphasised that such questions should be addressed by appropriate records management policies.

Decision 05/2018 highlights the needs for statutory boards, commissions, committees and similar bodies to clarify for the public who controls their records—and makes decisions about the records under the PATI Act. Once this is clear, the PATI process can be much more efficient for everyone!

ICO Statistics as of 31 July 2018

Total Applications: 77

Pending Investigations: 32

Pending Validation: 4

Decisions: 16

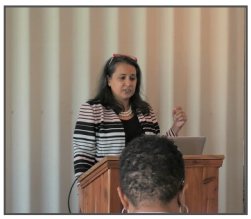
Resolved: 9

Invalid: 12

Abandoned: 4

Information Commissioner's Office

Launch of Information Commissioner's Quarterly Briefings



On 23 July 2018, the Information Commissioner's Office launched its new quarterly Information Commissioner's Briefings. These briefings provide opportunities for public authorities to discuss standards and to recap lessons learned from recent Information Commissioner's Decisions and ICO resolutions. The inaugural Briefing covered the standards for a public authority's duty to assist individuals and for conducting a reasonable search. It was attended by 34 individuals from diverse public authorities.

The ICO selected these topics for the first Briefing because these obligations are applicable to every public authority, involve fundamental obligations and may determine whether a PATI request is processed efficiently and effectively.

The Briefing was well-received. Attendees' commented that the briefing was "very informative" and "succinct", providing "additional information and tips".

The July Briefing presentation, with speaker's notes, is available on the ICO website under **Guidances & Publications**.

* Save the date for upcoming Briefings: 14 September 2018, 5 December 2018, 14 March 2019

Information Commissioner Attends Small Jurisdiction Conference Hosted by Nova Scotia Information & Privacy Commissioner

Information Commissioner Gitanjali Gutierrez attended a conference on *Access & Privacy Oversight: Challenges and Opportunities for Small Jurisdictions* hosted by the Nova Scotia Information and Privacy Commissioner Catherine Tully (*pictured left*). Eight Commissioners and their staff from nine jurisdictions attended, including the new Cayman Islands Ombudsman, Sandy Hermiston. The Commissioners discussed outreach strategies and effective collaboration strategies for nimble regulators. Commissioner Gutierrez introduced Toby Mendel from the Centre for Law and Democracy who presented his report *Right to Information Oversight Bodies: Design Considerations*. Following the conference, Commissioner Gutierrez visited the Nova Scotia Office of the Information & Privacy Commissioner to discuss organisational structures and investigations processes.

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2016 & 2017 Annual Reports

In June and July, the Information Commissioner tabled her 2016 and 2017 **Annual Reports**, respectively. They are available on our website, and highlights include:

"Accountability isn't always about getting it right every single time; it's about seeking input to identify improvements to public spending and services as public authorities move forward."

Gitanjali Gutierrez, Information Commissioner 2017 Annual Report

2017 Annual Report

- Public authorities reported receiving 136 new PATI requests
- 47% of the initial decisions granted access in whole or in part
- 87% of residents believe the PATI Act is important to them
- There were 2400 views of the ICO-sponsored Bermuda National Debate Team debate
- Personal information was the most commonly cited exemption in the initial decisions
- Bermuda Police Services and the Ministry of Health Headquarters reported the most PATI requests

2016 Annual Report

- Public authorities reported receiving 144 new PATI requests
- 64% of the initial decisions granted access in whole or in part
- The Information Commissioner conducted 22 public education programs
- During September, when International Right to Know Week was celebrated, the ICO Facebook page reached over 55,722 people
- The Information Commissioner issued four new exemption guidances
- Bermuda Police Services and the Ministry of Finance Headquarters reported the most PATI requests

The Information Commissioner's accounts are audited annually by the Auditor General. Our audited financial statements and other information about our public spending are available on our website under **Our Spending**.