

28 October 2021

To: All Media

**FOR IMMEDIATE RELEASE**

**Information Commissioner Issues Decision 12/2021**

Hamilton, Bermuda. On 21 October 2021, Information Commissioner Gitanjali Gutierrez issued [Decision 12/2021](#), Ministry of Legal Affairs and Constitutional Reform Headquarters. The circumstances relevant to this Decision were unique, which made the Information Commissioner's analysis in [Decision 12/2021](#) more substantive compared to her other failure-to-decide decisions.

The Applicant in this case is an inmate at a local correctional facility. They filed a PATI request to the Ministry Headquarters, which as a public authority includes the Legal Aid Office, but did not receive an initial decision. In the absence of an initial decision from the public authority explaining the correct procedures for seeking an internal review, the Applicant submitted their internal review request to the Chairperson of the Legal Aid Committee, instead of the Permanent Secretary of the Ministry Headquarters, who is the correct head of authority.

Because the Ministry Headquarters did not receive the Applicant's internal review request, the Information Commissioner is satisfied that the Ministry Headquarters did not fail to meet the statutory timeline to issue an internal review decision.

As a result of the Information Commissioner's review, however, the Ministry Headquarters became aware of the Applicant's internal review request. During the review, the Ministry Headquarters questioned whether the head of the Ministry Headquarters, the Acting Permanent Secretary, was the correct decision maker for the internal review in light of the relationship between the Legal Aid Office within the Ministry Headquarters and the statutory Legal Aid Committee. After considering the records sought and the PATI request itself, the Information Commissioner determined that the Acting Permanent Secretary for the Ministry Headquarters is the correct head of authority and, therefore, requires the Ministry Headquarters to provide the Applicant with an internal review decision.

[Decision 12/2021](#) offers a number of valuable lessons, including the importance of the public authority's duty to assist the requester and provide an initial decision in response to a PATI request. These lessons are even more crucial in circumstances such as those considered in [Decision 12/2021](#), where the requester has limited access to communication tools, due to their incarceration, and where the relationship between the Legal Aid Committee and the Ministry Headquarters (which includes the Legal Aid Office) is not as clear to the public. The Information Commissioner

emphasised in [Decision 12/2021](#) that the complex relationship between the Ministry Headquarters and the Legal Aid Committee should not undermine the public's and the Applicant's rights under the PATI Act to access public records.

[Decision 12/2021](#) is available on [www.ico.bm](http://www.ico.bm).

###

Editor's Notes:

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](http://www.ico.bm).