

5 November 2020

To: All Media

FOR IMMEDIATE RELEASE

ICO publishes Decision 14/2020, Ministry of Health Headquarters

Hamilton, Bermuda. On 29 October 2020, Information Commissioner Gutierrez issued [Decision 14/2020, Ministry of Health Headquarters](#) (Ministry), involving a Public Access to Information (PATI) request for the Ministry's external correspondence about cannabis, cannabinoids, cannabis law or policy, or cannabinoid law or policy. The Ministry's decision administratively denied the PATI request as frivolous or vexatious under section 16(e) of the PATI Act 2010. The Information Commissioner annulled the Ministry's decision.

The Information Commissioner found that, when viewed in the totality of the circumstances, that the Ministry did not justify denying the PATI request as frivolous or vexatious under section 16(1)(e) of the PATI Act. Specifically, the Information Commissioner found that the Applicant's pattern of conduct did not amount to an abuse of process. A portion of this PATI request did overlap with the records the Ministry had disclosed to the Applicant during two prior PATI requests. But rather than dismiss this entire PATI request, the Information Commissioner found that all evidence indicated that the Ministry could have addressed the overlapping portion of the PATI request with the Applicant, to exclude re-searching and processing the responsive records which the Ministry had previously disclosed. The Information Commissioner annulled the Ministry's decision and ordered the Ministry to process the new portions of the PATI request, as described in her Decision, and to issue a new initial decision for those responsive records.

In her Decision, the Information Commissioner acknowledged that the Ministry had been addressing the Applicant's PATI requests on a steady basis for years, in addition to informally communicating with the Applicant and voluntarily providing information as a matter of routine. Indeed, this review involved the same Applicant, the same public authority and the same general subject for the records sought as in three prior decisions by the Information Commissioner, Decision 30/2019, Decision 31/2019 and Decision 32/2019. These provide background and should be read together with [Decision 14/2020](#). Notably, Decision 32/2019 was the Information Commissioner's first decision addressing an administrative denial under section 16(1)(e) of the PATI Act for a frivolous or vexatious request, and [Decision 14/2020](#) is the second.

The Information Commissioner cautioned public authorities that the appropriate response to any burden created by the public's exercise of their rights under the PATI Act should be a careful

balancing of the public's rights with the resource needs of the public authority. When a significant public law and policy reform is under consideration, the possibility now exists that a stakeholder will exercise their rights under the PATI Act to request the relevant public records. At this point, public authorities and requesters have the benefit of the Information Commissioner's decisions in multiple reviews as well as the Minister's PATI Administrative Code of Practice for Public Authorities, which was issued in January 2020 in accordance with section 60(1) of the PATI Act.

[Decision 14/2020](#) can be accessed online at www.ico.bm. The Minister's PATI Practice Code is available on the Government's website at www.gov.bm.

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Editor's Notes:

The Information Commissioner's Office (ICO) is providing services to the public and other stakeholders during regular business hours. The ICO can be reached by visiting our offices at Maxwell Roberts Building, 4th Floor, One Church Street, Hamilton, or by calling 543-3700 or emailing info@ico.bm.

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.