

5 May 2022

To: All Media

FOR IMMEDIATE RELEASE

Information Commissioner Issues Decision 11/2022

Hamilton, Bermuda. On 28 April 2022, the Information Commissioner issued [Decision 11/2022, Ministry of National Security Headquarters](#) (Ministry Headquarters). The Applicant had submitted a Public Access to Information (PATI) request to the Ministry Headquarters seeking records about legal settlement payments to certain individuals who were pepper-sprayed during the protest on 2 December 2016. In response to the PATI request, the Ministry Headquarters had made a partial disclosure but denied access to the payment recipients' names, as exempt under the PATI Act, and concluded that no record existed which explained the basis for the payment calculations.

The Applicant sought an independent review by the Information Commissioner, as they were not satisfied with being denied records showing the payment recipients' names and the basis for deciding each protester's payment.

In her Decision, the Information Commissioner has found that the PATI Act does not apply to the recipients' names in the list of payments by virtue of section 4(1)(b)(vi). This section of the PATI Act removes from the Act's scope any record obtained or created by the Attorney General's Chambers, such as the list of payment recipients' names. Further, the Commissioner has found that the Ministry Headquarters was not justified in deciding that it held no records explaining the basis for the payment calculations. She concluded that the Ministry Headquarters had not taken reasonable steps to locate the records before concluding that the records did not exist and administratively denying this part of the PATI request. The Information Commissioner noted that, among other issues, the Ministry Headquarters did not search the email accounts of the former Minister or Permanent Secretaries in place when the settlement amounts were being determined, nor did it explain this omission when asked to do so during her review.

As a result, the Commissioner has ordered the Ministry Headquarters to conduct a reasonable search for records, according to her confidential instructions, and to issue a new initial decision to the Applicant on or before 9 June 2022.

[Decision 11/2022](#) is available on 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.