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To: All Media

FOR IMMEDIATE RELEASE

Acting Information Commissioner Issues Decision 04/2023

Hamilton, Bermuda. On 30 March 2023, Acting Information Commissioner Answer Styannes issued [Decision 04/2023](#), Department of Health (Department). The Applicant had submitted a Public Access to Information (PATI) request to the Department for specific health and safety reports and details on any complaint received about the Histology Laboratory at the King Edward VII Memorial Hospital. The Department initially denied the request in full on the basis that the PATI Act did not apply to the responsive records under section 4(1)(a), because the records related to the exercise of a court's judicial function. During the Information Commissioner's review, however, the Department abandoned its reliance on the provision to deny public access to details of any health and safety complaints.

Acting Information Commissioner Styannes found that the Department was justified in denying public access to two specific health and safety reports under section 4(1)(a) of the PATI Act because she was satisfied that, more probable than not, they formed part of the evidence for a pending legal proceeding before the Supreme Court. In the absence of sufficient evidence, however, she found that the Department was not justified in relying on section 4(1)(a) for denying access to the follow up reports. As a result, and given that the Department abandoned its reliance on section 4(1)(a) with regards to the health and safety complaints records, the Acting Information Commissioner has ordered the Department to re-process parts of the PATI request and issue a new initial decision on or before Thursday, 11 May 2023.

[Decision 04/2023](#) and the accompanying Orders have been filed with the Supreme Court are legally binding. All decisions issued by the Acting Information Commissioner under section 47(4) of the PATI Act are available at ico.bm.

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Editor's Notes:

About the ICO

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 Bermuda's 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.

Orders and Enforcement

When the Information Commissioner issues decisions with accompanying orders, the decision is filed with the Supreme Court, in accordance with section 48(3) of the PATI Act. If a public authority fails to comply with her decisions and Orders, Information Commissioner Gutierrez will pursue enforcement to safeguard the rights of PATI requesters and the public. To date, public authorities either have complied or are working towards compliance with all the orders accompanying decisions issued by the Information Commissioner.

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