

MONTHLY ROUNDUP

Volume VI, Issue VII

JULY 2023

“...we’ve seen the laws used and people have understood the very very strong link between their accessing information and their being able to access their other basic rights and entitlements.”

Anjali Bhardwaj,
Founding Member of
Satark Nagrik
Sangathan in India, an
excerpt from the panel
entitled *Reflecting ATI
Mechanisms Against the
Background of Culture,
Society, and Human
Psychology*, during the
14th Annual
International
Conference of
Information
Commissioners

WELCOME

The Information Commissioner’s Office (ICO) welcomes you to the latest issue of our Monthly Roundup. The ICO is an independent public office that promotes and enforces the Public Access to Information (PATI) Act 2010 in Bermuda.

The ICO’s Monthly Roundup offers helpful information about PATI rights and practices for both the public and public authorities.



In this issue, we take a look at the Information Commissioner’s recently issued decisions, which provide insight into how systemic PATI issues within a public authority impact the PATI rights of Bermudians and residents.

Also, the ICO once again participated in the Future Leaders Programme, with Investigation Officers Ian Cameron and LaKai Dill providing a presentation to the 2023 cohorts.

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DECISIONS ISSUED

During July 2023, the Information Commissioner issued five decisions and received seven new applications. Highlights are below:

It is your PATI right to receive timely decisions from public authorities.

In July, the ICO continued to issue failure-to-decide decisions where the public authorities failed to respond when the PATI requester sought an internal review decision. The Information Commissioner's [Decision 16/2023](#) considered Ministry of Health Headquarters' failure to issue a timely internal review decision on a PATI request for records relating to tech companies BPMS Ltd.,



Innofund Ltd., Innofund Innovation Incubator Ltd. and the Fastpass port of entry system.

In [Decision 18/2023](#), the requester sought from the Bermuda Police Service (BPS) copies of emails between senior BPS Officers referencing the Applicant and another officer. The BPS also failed to issue a timely internal review decision. In both decisions, the Information Commissioner issued an order requiring the public authorities to issue an internal review decision within four weeks.

What can happen if the report that is requested under the PATI Act has not been finalized? Read [Decision 17/2023](#) to learn more.

In [Decision 17/2023](#), [Office of the Governor](#), the Information Commissioner considered Government House's refusal of a request made under the PATI Act for a report on misconduct claims against the former Commissioner of Police. The Information Commissioner reviewed the withheld record and accepted Government House's explanation that the document was not a final report on the misconduct claims but instead was an interim update provided to the Governor. The Information Commissioner agreed with Government House that the interim update is exempt under section 30(1)(a) of the PATI Act because its disclosure could reasonably be expected to prejudice the effectiveness of the procedures for an investigation on the conduct of a Commissioner of Police, as set out in the Police (Conduct) Orders 2016.

The Applicant made compelling arguments that the public interest required disclosure of the document because the investigation involved allegations of gross misconduct against the most senior law enforcement officer, the former Commissioner of Police. In considering the balance of the public interest, though, the Information Commissioner emphasized that the document was only an interim update that did not make findings on the allegations. Its disclosure would not further accountability because the document involved unproven allegations and facts that may not have survived the completion of the investigation. The Information Commissioner found that the weightier public interests favouring confidentiality included the privacy interests

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DECISIONS ISSUED...cont.

of those involved, as well as the public's interest in maintaining the fairness of the administrative processes under the Police Conduct Order and preventing unjust harm to individuals. In [Decision 17/2023](#), the Information Commissioner upheld Government House's internal review decision and did not require Government House to take further action in relation to the Decision.

Search, search, search. Conducting proper searches for responsive records saves time and ensures that PATI rights are upheld.

Also in July, Acting Information Commissioner Answer Styannes issued [Decisions 19 & 20/2023](#) which considered the Bermuda Police Service's handling of two separate PATI requests for internal emails on various topics. The Acting Information Commissioner was satisfied that the BPS had conducted reasonable searches to locate the requested records, save for the emails from the then-Commissioner of Police about the Applicant and another officer in relation to a certain incident. As a result, she ordered the BPS to conduct a reasonable search to locate the emails and to issue a new initial decision to the Applicant on or before Tuesday, 5 September 2023.



ICO STATISTICS AS OF 30 JULY 2023

(from 1 April 2015)

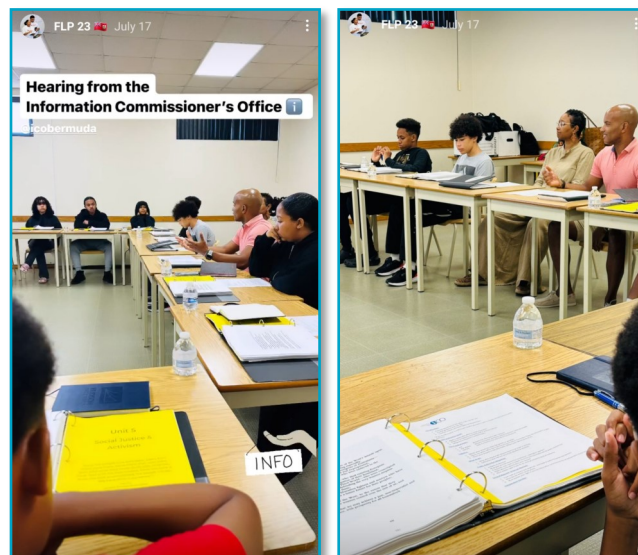
Total applications for independent review	Closed: Decided	152
by the Information Commissioner	Closed: Resolved	30
272	Closed: Abandoned	7
Pending investigations	Closed: Invalid	30
45		
Applications pending validation		
8		

FUTURE LEADERS BERMUDA PROGRAMME 2023

ICO Investigation Officers Mr. Ian Cameron and Ms. LaKai Dill provided a lively presentation to this year's Future Leaders Programme cohort. The cohort raised insightful questions for the Investigation Officers about how to use the PATI process and made meaningful connections between PATI and their prior learning from throughout the programme. Mr. Cameron shared on his extensive work in the public sector, providing a well-rounded base for discussions with the young group.



The ICO's participation with this programme continues to be an important element to our public awareness programme. The Future Leaders Programme is structured to empower middle and high school students in Bermuda who have an interest in service, citizenship, social justice or leadership. It is important to Information Commissioner Gutierrez that Bermuda's youth know and understand their PATI rights at a young age, and gain an appreciation for the role of the Information Commissioner and the ICO.





**Information Commissioner's Quarterly Briefings
2023-2024**

Thursday, 14 September 2023

Thursday, 7 December 2023

Thursday, 22 February 2024

ICO Briefings are for public authorities only.
Registration details will be sent directly to public authorities.

Right to Know Week 2023

Monday, 25 September to Friday, 29 September

International Right to Know Day

Thursday, 28 September

PATI presentation with the BIU

Wednesday, 20th September @ 5:30pm

Invites to this presentation will be sent directly to BIU membership.