Guidance

Information Statements

March 2023

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Overview

1. The Information Commissioner's Office (ICO) issues this guidance for public authorities pursuant to sections 7(1)(a), 10 and 51(1) of the Public Access to Information (PATI) Act 2010. The purpose of this Guidance is to provide the criteria the Information Commissioner will use to measure a public authority's compliance with the requirements relating to Information Statements under section 5 of the PATI Act.

2. The PATI Act provides public access to records held by public authorities in two ways. First, your public authority is required to either publish or have readily available certain information about what you do. Second, Bermudians and residents have a right to make a PATI request for records you hold. An Information Statement helps the public get access to information in both of these ways.

3. The PATI Act requires all public authorities to prepare and publish an Information Statement in a manner detailed in this Guidance. Although given the varying types of public authorities falling within the scope of the PATI Act (e.g., government departments and ministries, quangos, boards, committees, tribunals, councils), the content of one public authority's Information Statement will be unique to that public authority. Screenshots from parts of public authorities' information statements are included throughout this guidance as examples for reference only. The content within the screenshots may not represent the most up-to-date information for the public authority highlighted. The screenshots are provided only to illustrate examples of content that should be included in information statements.

Information Statement: What does PATI Act say?

4. The relevant provisions of the PATI Act are:

Part 2
PROVISION OF INFORMATION BY PUBLIC AUTHORITIES

Information Statement

5 (1) Every public authority shall prepare an information statement setting out—

a) a description of the structure and organization of the authority and the legislation governing the authority;
b) a description of the functions, powers and duties of the authority, including its obligations under this Act;
c) a summary of the services that the authority provides, including ongoing programs of the authority;
d) a description of all classes of records that are held by the authority, in sufficient detail to facilitate the exercise of the right of access under this Act;
e) a description of all manuals used by employees of the authority in administering or carrying out the programs and activities of the authority;
f) a description of the policies, rules and guidelines used by the authority to make decisions or recommendations in respect to any person;
g) the name and contact information of [the Information Officer] designated by the authority under section 62 of the PATI Act as the person to whom requests under this Act may be directed;
h) any other information that the head of the authority considers relevant for the purpose of facilitating access by the public to information held by the authority; and
i) any other information that may be prescribed.

(2) Every public authority shall update its information statement at least once a year, and may do so more frequently.

(3) Every public authority shall cause its information statement, as updated from time to time, to be made available for inspection by the public at reasonable times by–

a) keeping copies at its principal office;

b) providing a copy to the Bermuda National Library and to the Bermuda Archives; and

c) making copies available electronically, including on any website of the public authority.

(4) A public authority shall publish a notice in the [government's Official] Gazette indicating the places where its information statement is available for inspection by the public, including any web address of the public authority on which the statement is published.

(5) Every public authority shall provide a copy of its information statement, as updated from time to time, to the Commissioner.

* * *

Saving for exempt records

11 Nothing in this Part requires a public authority to publish or provide any information that constitutes an exempt record under this Act.

What is the purpose of the Information Statement?

5. The Information Statement is an important publicly available document to help the public exercise their right to access records held by public authorities. Each public authority's Information Statement should explain what the public authority does, its structure, how it makes decisions, what classes of records it holds and how to request access to its records.

6. People will look at your Information Statement:

- to see what classes of records your public authority holds;
- to figure out if the information they want is routinely available to the public without needing to file a PATI request;
- to decide whether to ask your public authority for records, either by filing a PATI request or other means; and
- to obtain your Information Officer's name and contact details.

7. A clear and thorough Information Statement can help people write a clearer PATI request for public authorities. This means that you may have an easier time understanding the request and identifying the specific records sought. A good Information Statement will also help people be more informed and better prepared to speak to you. This will make the public's access to records a more efficient process for everyone.

What should an Information Statement include?

Name of public authority

8. Include the name of your public authority at the top of its Information Statement. Make sure that the name is accurate and written clearly, so the public can recognise your public authority's Information Statement easily. If your public authority has an unofficial name (e.g., "Government House" for Office of the Governor) or has a popular acronym (e.g., "IDT" for the Department of Information Digital and Technologies), consider including it here.

9. If your public authority falls under a certain ministry, add the name of the relevant ministry here too. Note that this information will need to be updated if your public authority is moved to a different ministry.

Taking advantage of the "Introduction"

10. In the Introduction section, explain how your Information Statement is intended to help the public access records that you hold. You can explain that some records, such as annual reports and PATI request logs, are routinely available. Adding information on how to access these records outside the process set out in the PATI Act would also be helpful.

The purpose of the PATI Act and this document is to make information readily available to the public without the need for specific written requests, to encourage authorities to proactively publish information and to develop a culture of openness. Every person who is a Bermudian, or resident of Bermuda, has a right to access any record held by a public authority unless it is exempt. Several classes of information are exempt, including: Personal information (unless it relates to the requestor); Sensitive commercial, information received in confidence; Operations and deliberations of Public Authorities; Cabinet, Ministerial and Governors documents; and Legal documents. However, these exemptions are subject to the public interest test, except those that would be in contempt of Court, infringe Parliamentary privilege or are prohibited by other legislation [see sections 21 to 40, PATI Act]. In addition every person has a right to amend their personal information if it is incomplete, incorrect or misleading [s19, PATI Act].

Key and Definitions

- Authority means the Ministry Headquarters
- Ministry means the Ministry of Health
- PATI means Public Access To Information
- Square brackets [ ], refer to sections of the PATI Act, unless another Act is indicated

Figure 1. The Introduction section is a good opportunity to explain the public's right to ask for records under the PATI Act and the keys and definitions in the Information Statement. Source: Ministry of Health HQ's Information Statement, 15 December 2020

11. At a minimum, the PATI Act requires eight types of information in your Information Statement:

Structure, organisation and governing legislation

12. This section informs the public of the structure and organisation of your public authority as well as the legislation that governs your work. If you have an organisational chart, it should be included but ensure that it is legible, up-to-date and complete. It is important that any abbreviations, acronyms, or specialist description or term used in the organisational chart are explained in plain language. Where relevant, the organisational chart can include the position identity number, pay scale and other information that is attached to the positions. It does not need to include the names of the individuals holding the posts. If your public authority has an advisory body or committee, or is a statutory board or committee, please provide information about its members.

13. If, due to its size, a legible organisational chart cannot be included in the Information Statement, consider providing information on how the public can access it (for example, by accessing the public authority's website or by contacting the Information Officer).

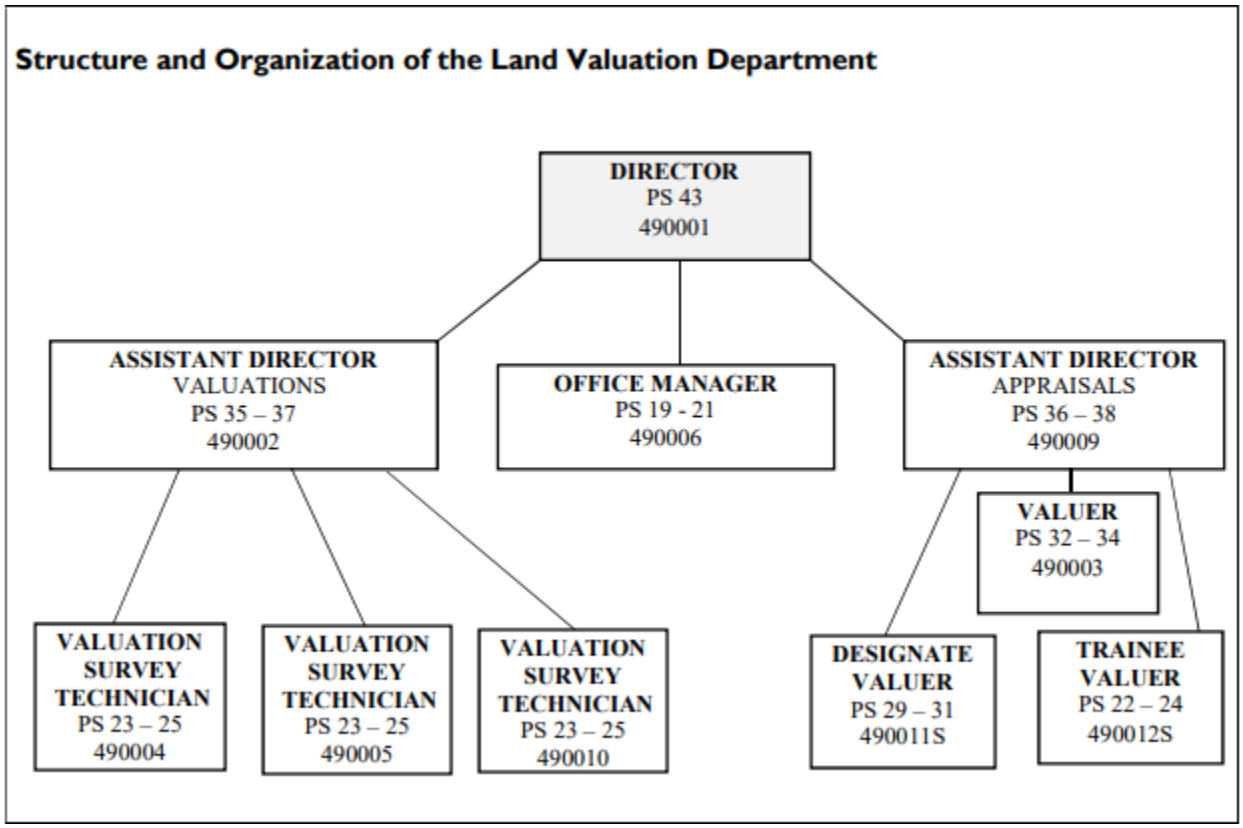


Figure 2. A good example of an organisational chart. Source: Land Valuation Department's Information Statement, 9 January 2023

About Us:

The Board's authority is derived from the Bermuda Immigration and Protection Act 1956 (together with its related policies, rules and regulations) which replaced the earlier Act.

Under the direction of the Chairman, the Board of Immigration comprises 13 members, including:

1) Mrs. Renee Ming, Chairman
2) Mr. Brian Holdipp, Deputy Chairman
3) Mrs. Donna Harvey-Maybury
4) Mr. Charles, Dunstan
5) Mr. George Scott
6) Mr. Kevin Grant
7) Ms. Kellie-Anne Smith
8) Ms. Desomond Townsend
9) Mrs. Daina Casling
10) Mrs. Norma Trott
11) Mr. Clarendon LaMel Burch
12) Dr. Michael Bradshaw
13) Ms.Gail Miller

Figure 3. Statutory boards and committees are encouraged to include the names of its members in the Information Statement, as the Board of Immigration did in its 6 January 2020 Information Statement shown above.

14. In this section, you might also want to provide any important information relating to your public authority's organisation, i.e., how different units or sections within your public authority are arranged, especially if the Information Statement does not clearly identify the different units or sections within your public authority's structure.

15. Please also include the relevant legislation which governs your work. Consider adding a hyperlink to each relevant legislation to make it easier for the public to find the text of the legislation. The link can be copied from bermudalaws.bm.

> **Note:**
> If your public authority's Information Statement contains hyperlinks, remember to save and publish your public authority's Information Statement as a pdf document, instead of as a scanned document. This will allow the members of the public to click on the hyperlinked texts.

Functions, powers and duties

16. This section should give the public a plain language description of your work functions and duties. This may already be published in your annual report or other publications. Your mission statement and any strategic goals or organizational values should be included. The description of your functions should explain the range and scope of the work that you do.

17. When you describe your functions and duties, include a description of your powers. The description should adequately tell the public about the range and scope of your public authority's power that can affect them. For example, you should explain if your public authority grants licenses, issues approvals, determines benefits, imposes fines, conducts assessments and so on.

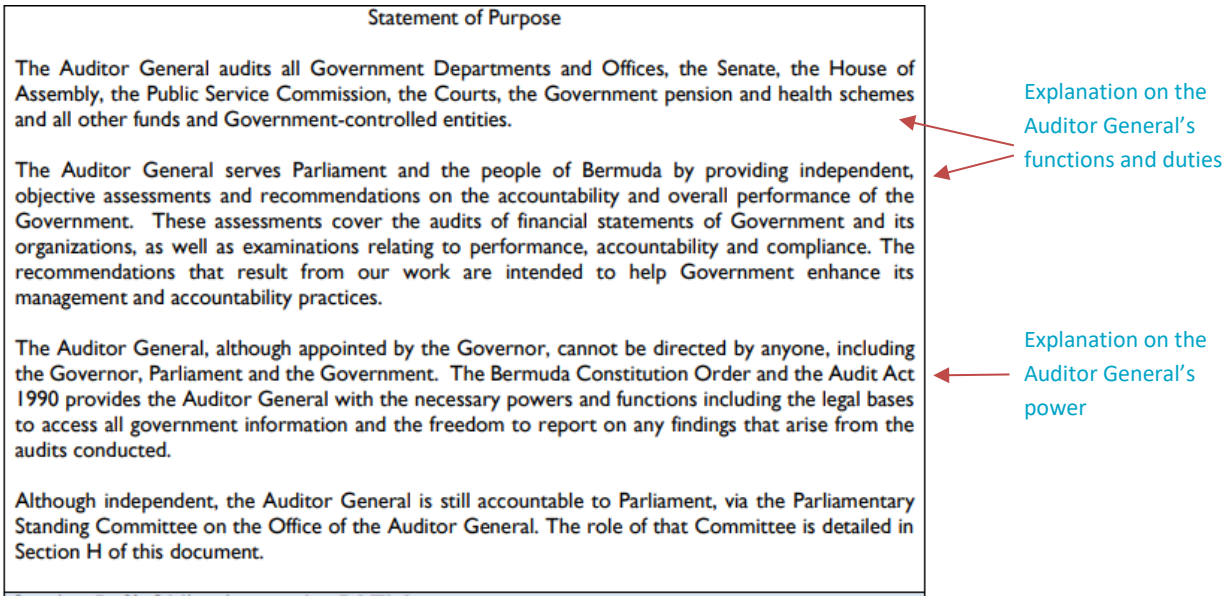


Figure 4. A clear explanation on your public authority's functions, powers and duties help the public understand what your public authority does. Source: Office of the Auditor General's Information Statement, 12 January 2023

18. Every public authority also has non-statutory functions and powers to enable it to carry out its business. These include, for example, administrative and organisational functions such as human resources, public relations and property management. It is helpful to remind the public of these functions. Include the records created to fulfill these functions in the "Classes of records held" section below.

19. If your public authority has multiple sections or units, consider including an explanation of the functions, powers and duties of each of those sections or units.

Obligations under the PATI Act

20. The obligations for all public authorities under the PATI Act are the same:

- Prepare and publish an Information Statement in a manner specified in the PATI Act (section 5)
- Provide other information to the public (section 6) which includes:
    - information it holds and how to access it
    - PATI request log
    - Quarterly expenditures
    - Publish in the government's Official Gazette details of contracts with a total value of $50,000 or more
- Respond to the following, as required by the PATI Act:
    - PATI requests (sections 12-15)
    - internal review requests (sections 41-44)
    - request to amend record of personal information (section 19)
- Provide written report to the Information Commissioner on the number of:
    - PATI requests
    - internal review requests
    - requests to amend record of personal information received and their dispositions (section 58(3))
- Train staff and make arrangements to facilitate compliance with the PATI Act (section 61)
- Appoint an Information Officer (section 62)

Services and programmes

21. This section should give the public a description of the services and programmes you offer. This information is most likely already included on your website or in brochures, annual reports and other existing publications.

Section C: Services and Programmes [s5(1)c]

The Commission has a statutory remit to protect and promote human rights under the Human Rights Act, 1981. The Commission provides the following public services:

- Confidential facilitation of all queries and complaints that come before the Commission (services are free of cost). Members of the public may call (295-5859), email (humanrights@gov.bm), visit our site (www.humanrights.bm) or visit in person at our office (Milner Place, Ground Floor, 32 Victoria Street, Hamilton);
- Dispute resolution services for human rights complaints;
- Education and engagement with all stakeholders to promote understanding of the protections afforded under the Act, and Bermuda's human rights framework;
- Stakeholder consultations and education to support compliance with the Human Rights Act, 1981; and the,
- Administration of Human Rights Tribunals.

The Commission's Intake Screening Process can be found on our website, www.humanrights.bm.

Figure 5. This description provides a concise summary of the services provided by the Human Rights Commission. References to the Commission's contact details and website are helpful. Source: Human Rights Commission's Information Statement, 21 December 2022.

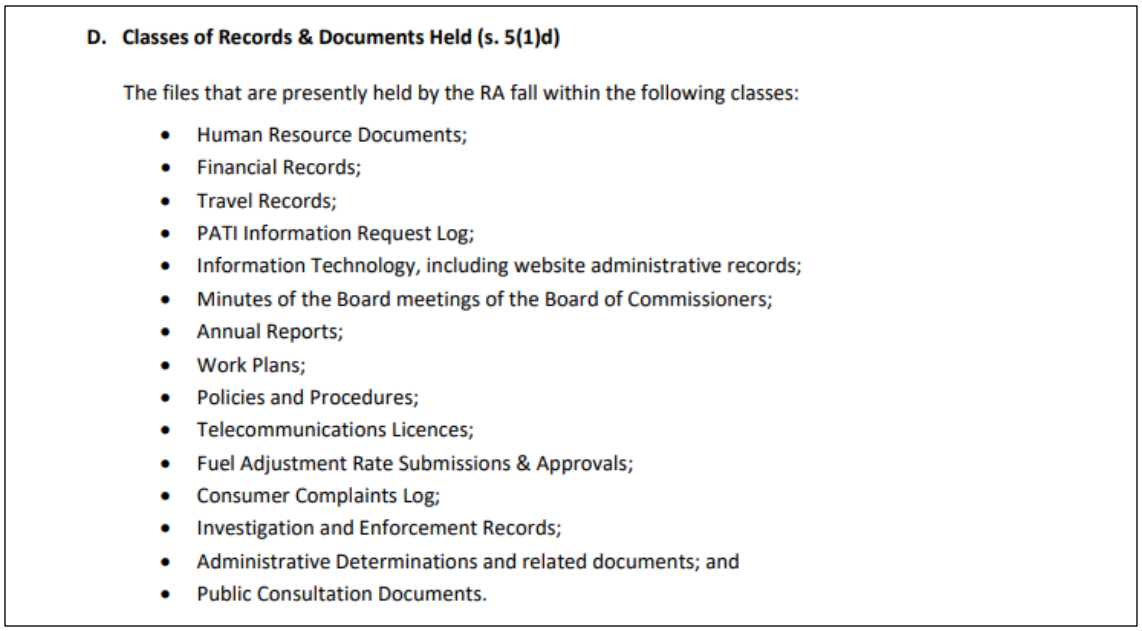
Classes of records held

22. This section of the Information Statement is critical for helping the public understand what classes of records you hold. The PATI Act requires the Minister, in consultation with the Information Commissioner and Archivist, to provide practice codes for records maintenance and management that will assist with this process. As of January 2023, the drafting of these practice codes are still underway and they are not yet available.

It is important that your Information Statement explains the range of your classes of records.

23. In the absence of the relevant practice codes, to complete this section you might want to think of the records that your public authority holds and how they can be separated into different classes. The classes can be based on, for example, your public authority's statutory mandate, business units, or sections. You might also want to include administrative records (e.g., recruitment and employment files, budget and financial records) as a separate class. The purpose of this

section is to provide the public with a high level overview of the records held by your public authority. Note, though, that description of classes of records should be in sufficient detail to facilitate the exercise of the right to access public records.



D. Classes of Records & Documents Held (s. 5(1)d)

The files that are presently held by the RA fall within the following classes:

- Human Resource Documents;
- Financial Records;
- Travel Records;
- PATI Information Request Log;
- Information Technology, including website administrative records;
- Minutes of the Board meetings of the Board of Commissioners;
- Annual Reports;
- Work Plans;
- Policies and Procedures;
- Telecommunications Licences;
- Fuel Adjustment Rate Submissions & Approvals;
- Consumer Complaints Log;
- Investigation and Enforcement Records;
- Administrative Determinations and related documents; and
- Public Consultation Documents.

Figure 6. The classes of records held by your public authority can be based on its mandate, business units, or any other categories that fit its needs. Source: Regulatory Authority of Bermuda's Information Statement, 13 January 2023

24. If your public authority inherited and holds records from another public authority which no longer exists, it is strongly encouraged that you make this clear in this section of the Information Statement. Include the name of the now defunct public authority, so that this information is clear to not only the public, but other public authorities as well.

25. Section 4(1)(b) of the PATI Act removes records which were created or obtained by certain public authorities in the exercise of their functions from the scope of the PATI Act. If your public authority is listed in section 4(1)(b) of the PATI Act, in this section of the Information Statement you might want to explain that the PATI Act does not apply to some of the records held by your public authority. If you do, clearly state that the PATI Act still applies to your public authority's administrative records.

26. Your public authority might be of the view that some of the records listed in this section of the Information Statement fall under any of the exemptions in Part 4 of the PATI Act. Note, however, that a determination on whether a record is exempt should be based on the content of the actual record and not be made in the abstract. Meaning, your public authority's Information Statement should refrain from making a general claim that certain classes of records are exempt.

27. Listing a record in this section of the Information Statement does not mean that your public authority agrees to its public disclosure. It simply informs the public of the existence of the record, i.e., that your public authority holds it.

28. Public authorities are not required to include in the Information Statement any record which it believes to be exempt and whose disclosure of existence is not in the public interest.

Administrative and operational manuals

29. This section should include a description of your administrative and operational manuals staff use to administer and carry out the programmes and activities of your public authority. This will include procedural manuals, instructions and protocols for delivering your functions and responsibilities.

30. Administrative manuals refer to manuals for activities common to all public authorities, such as human resources, technology, finance, public relations and administering PATI Act requests.

31. Operational manuals refer to manuals for carrying out activities specific to your mandate or programmes. These will be unique to each public authority.

Decision making policies, rules and guidelines

32. This section should include the description of the documents that guide your public authority's decision making. They may include rules, precedents, policy guidance, codes, decision templates, model letters, training packages or checklists.

33. You should also include any process you have for advice, feedback or consultation with the public or other public authorities when setting your policies and practices.

34. The administrative and operational manuals, and the decision making documents such as policies, rules and guidelines explain to the public the internal criteria that determine how and why your public authority does what it does. It is the information that assists the public authority in carrying out its functions and exercising its power.

> **Note:**
> Listing your public authority's classes of records, administrative and operation manuals as well as decision making policies, rules and guidelines in the Information Statement is not indicative whether your public authority agrees to disclose them to the public, either in full or in part. Stating in an Information Statement that you hold investigation records, for example, does not mean that your public authority agrees to their public disclosure.

35. If any of the manuals, policies, rules and guidelines can be disclosed to the public, consider providing information on how the public can already access them. You might want to include, for example, the hyperlink to the document if it is available online or mention that a hard copy can be obtained at your public authority's office.

Designated Information Officer's details

36. Section 5(1)(g) requires public authorities to provide the name and contact details for the individual appointed as the Information Officer. Simply providing the public authority's general email address and your public authority's office address does not satisfy this requirement. The Information Officer's (and, if applicable, the alternate Information Officer's) name, email and phone number should be provided.

37. Some public authorities have included information for "Deputy Information Officers" and other additional PATI-related personnel. It is fine to include these individuals on the Information Statement. It reflects a commitment to provide adequate support and staffing to comply with the PATI Act.

Public authority's Information Statement should be available online and at:

- its principal office
- the Department of Libraries and Archives
- the ICO

Other information helpful to the public's right to access information

38. This section should include any other information relevant to your public authority that will help facilitate the public's right to access information. This could include any proactive publication and details on electronic or physical reading rooms for disclosed records that you have available. If you have not already included information about your annual reports, other regular publications (such as newsletters, brochures, etc.) or other information available on online (such as your website, social media accounts, etc.) you could list it here.

Any other information that is prescribed

39. Here, you should indicate any other information that you are required under the PATI Act or other laws to make routinely available to the public, for example, annual reports or audited financial statements. This will help the public know what records they can get from you without having to resort to a request for records under the PATI Act.

Publishing an Information Statement

40. Every public authority must publish an Information Statement. This means that your public authority's Information Statement-related information should not be included as part of another public authority's Information Statement (such as part of a Ministry Headquarters' or Department's).

41. The PATI Act requires public authorities to update its information statement at least once a year. Your public authority can use the ICO's Annual Return process as a reminder to review and update your public authority's Information Statement. The Guidance on the ICO Annual Return is available on ico.bm.

42. If there is no new information need to be included in the Information Statement, public authorities are strongly encouraged to still update the date of the Information Statement. This would inform the public that the details in the Information Statement remains up-to-date.

43. Public authorities should keep copies of their Information Statements at their principal office. They should also provide a copy to the Department of Libraries and Archives and the Information Commissioner.

44. If your public authority does not have a physical office or a website, consider asking a related Ministry Headquarters or Department to keep a copy of your Information Statement and asking the Department of Communications (the portal administrators for the government website) to publish your Information Statement on gov.bm. This should be made clear in the Information Statement so that the public is aware.

45. The PATI Act also requires public authorities to publish a notice in the Official Gazette informing the public of the location of their Information Statements. This includes any web address of the public authority on which the statement is published. Note that reference to a generic web address such as "www.gov.bm" is not sufficient. The Official Gazette should include the specific link which would lead the public to the actual web page containing the relevant Information Statement. To ensure that the public can click the actual link, save and publish your Information Statement as a pdf document instead of as a scanned pdf copy.

46. Public authorities are only required to publish the notice in the Official Gazette once, unless the location of their Information Statements changed. For example, because their physical or website address changed.

47. Note that the Official Gazette notices published between 1 April 2015 and end of September 2020 are available in hard copies only. As of October 2020, all Official Gazette notices are available online.

Enforcement by the Information Commissioner

48. In addition to giving the Information Commissioner the power to provide guidance to public authorities with regard to the preparation of Information Statements, section 7(2) of the PATI Act authorises her to review the Information Statement of any public authority to determine if it complies with the requirements set out in section 5.

49. If and when the Information Commissioner is of the view that a public authority fails to meet the requirements relating to Information Statements in section 5, the ICO will notify the public authority of the noncompliance. As a first approach, the ICO will attempt to work together with the public authority and inform it of the steps that the public authority needs to take to bring it to compliance.

50. In the event a public authority noncompliance with section 5 of the PATI Act continues, despite being given a reasonable opportunity by the ICO to bring itself into compliance, the Information Commissioner may issue an order under section 7(2). The Information Commissioner's order is legally binding and, upon it being filed with the Supreme Court, has the effect of an order of the Supreme Court. This means it can be enforced in the same manner as an order of the court.

More information

51. The Information Commissioner's Guidances and additional resources are available on our website, ico.bm. Hardcopies of these resources are available on request.

52. The PATI/PIPA Unit at the Cabinet Office has created information statement templates that can be used by public authorities. Paragraphs 13.2-13.8 of the Cabinet Office's Practice Code on the Administrative of the PATI Act also discusses the requirements of an Information Statement.

53. To submit your information statement to the Information Commissioner, send to stats@ico.bm.

54. If you need any more information about this Guidance or have an inquiry about any other general aspect of the PATI Act, or public access to information, please contact us:

Information Commissioner's Office

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Document control sheet

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Date	**Actioned by** *(initials)*	**Version updated** *(e.g. v1.0-5 or v2.1-5)*	**New version number** *(e.g. v1.2-5 or 2.1-5)*	**Brief description of changes** *(e.g. updated paras. 8-12 to change head of public authority to Information Officer; reviewed the entire section on notice to third parties; corrected typos; reformatted to new logo/branding)*
15 March 2023	AS	1.0	2.0	Reformatted to new branding; added screenshots, callouts and notes; added new paragraphs.