FAQ: PATI Act Part 2 obligations for public authorities

1. **What information must a public authority proactively publish under the PATI Act?**

   'Proactively publish' means that information about a public authority is readily available to the public without the need to make a PATI request.

   Under Part 2 of the PATI Act, every public authority is required to:

   - Publish an up-to-date Information Statement.
   - Provide information to the public about information it holds and how to access that information through media or online outlets.
   - Maintain a PATI request log with certain details, for any member of the public to view.
   - Produce quarterly expenditures, for any member of the public to view.
   - Post in the Official Gazette certain details of all qualifying contracts with a total value of $50,000 or more.

   Sections 5 and 6 of the PATI Act provides what is mandatory for each of these items.

   You can find more information about how public authorities can meet these requirements by reading the relevant guidance documents published by the ICO; they are all available online at ico.bm.

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2. **I am a new Information Officer taking a fresh look at my public authority's PATI proactive publication requirements. Where can I find information about what my public authority has published in the past?**

   Published information statements, are either on the public authority's website, on the Government portal's 'Public Access to Information' webpage, or can be found on the ICO's 'Public Authorities List' webpage.

   To locate past publication notices of qualifying contracts, you can search the Government's Official Gazette. [Search tip: You can start by narrowing search by Notice type 'Government Notice' and 'PATI Contracts valued $50,000 or more']

   Another resource is the Office of Project Management & Procurement, who maintain a contract register that could be used to verify whether qualifying contracts have been gazetted. OPMP can be reached by emailing procurement@gov.bm.

   You may contact the ICO at stats@ico.bm, to learn what information a public authority has published previously based on their past PATI Annual Returns to the ICO.

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3. **How often does a public authority need to update its Information Statement?**

Every public authority must update its information statement at least once annually. If any change about the public authority has occurred, which affects the content in their existing Information Statement, the information statement should be revised as the need arises. The PATI Annual Return gives the opportunity for all public authorities to review information statements and publish updated versions.

You can find more information about publication of information statements and the required content, in the ICO's Information Statement Guidance.

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4. **What kinds of information should my public authority proactively publish about information it holds?**

This is unique to each public authority. The general expectation is that public authorities survey the information they hold, on an annual basis, to decide what kinds of records or information may generally benefit the public so that publication could result in minimum need for the public to make a PATI requests. Most public authorities will provide information about their operations, functions and programmes online. Some public authorities have found value in proactively disclosing their meeting minutes, financial reports and strategic plans, etc.

The PATI Annual Return process gives an opportunity for all public authorities to review and be intentional about what information it wishes to proactively publish for the public's benefit. It also allows public authorities to share with the ICO how they are proactively disclosing more public information.

You can find more information about proactive publication in the ICO's Information Statement Guidance; PATI Annual Return Guidance and in Information Commissioner's Briefings.

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5. **What is a qualifying contract?**

A 'qualifying contract' is a contract for goods or services with a total value of $50,000 or more. This includes contracts where the total value reaches $50,000 within three consecutive years.

You can find more information about gazetting qualifying contracts and how to calculate total value, in the Office of Project Management and Procurement's Code of Practice for Project Management and Procurement; the ICO's PATI Annual Return Guidance and ICO's Reference Guide to Gazetting Qualifying Contracts.

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6. **When should a public authority gazette a qualifying contract?**

The timeframe in the PATI Act for when to gazette is "on a regular basis" (see section 6(6) of the PATI Act). This implies an ongoing obligation to keep contract values under review to identify any qualifying contracts which require gazetting. The accepted practice is for gazetting of qualifying contracts to be done at least once a year. Public authorities who enter contracts frequently, should gazette their contract notices every quarter.

You can find more information about gazetting contracts, in the Cabinet Office's PATI Practice Code; the ICO's PATI Annual Return Guidance and ICO's Reference Guide to Gazetting Contracts.

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7. **Should the contract be gazetted at the time of engagement or once paid?**

It depends. If the total value is known at the time of engagement (e.g. for a consultant agreement or a lease), the public authority must gazette the contract once engaged if the terms indicate a contract value of $50,000 or more. If the total value is known only once the service is delivered, the public authority may gazette it once paid. If the contract extends beyond a year, and the total value of the contract will meet the $50,000 threshold, the public authority must gazette the actual paid value of the contract at the end of each calendar year.

You can find more information about gazetting contracts, in the Cabinet Office's PATI Practice Code; the ICO's PATI Annual Return Guidance and ICO's Reference Guide to Gazetting Qualifying Contracts.

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8. **Does a qualifying contract have to be published in full to comply with section 6(5)?**

No, not in full. Section 6(5) of the PATI Act requires every public authority to publish, in the Official Gazette, certain details about their qualifying contracts. This includes: the name of the contractor; the monetary value of the contract; the goods and services provided under the contract; and the timeframe for performance of the contract (completion or delivery date).

The only exception is when these details are exempt from public disclosure under an exemption in Part 4 of the PATI Act. If a public authority determines that information about a qualifying contract are exempt from public disclosure, this must be noted in the public authority's completed PATI Annual Return to the ICO at the close of each calendar year.

If the Information Commissioner determines that information is not properly exempt under the PATI Act, the Commissioner has the power to issue an order requiring the public authority to publish the information about their qualifying contract (see section 8(2) of the PATI Act).

You can find more information about gazetting contracts, in the Cabinet Office's PATI Practice Code; the ICO's PATI Annual Return Guidance and ICO's Reference Guide to Gazetting Qualifying Contracts.

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9. **For the past five years, our public authority has engaged the same vendor for the same service. For our budget purposes, we preferred to enter a new contract each fiscal year. Technically, each contract value was below the $50,000 threshold. Still though, we have paid the same vendor a total of $100,000 within the past five years. How should we understand the contract gazetting requirement in this case?**

   If the cumulative value exceeded $50,000 by year 3 of the contract, then the threshold was met in year 3, and a gazette notice was due in year 3. The public authority must prepare a gazette notice on the terms and total amount paid for each contract as well as the total value paid, to date, under these five consecutive contracts.

   You can find more information about calculating total contract value for gazetting, in the Office of Project Management and Procurement's Code of Practice for Project Management and Procurement; the ICO's PATI Annual Return Guidance and ICO's Reference Guide to Gazetting Qualifying Contracts.

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10. **Our public authority has rented the same location for the past 12 years and extended the lease twice since the original lease period. For this year's gazette notice, do we need to give the cumulative total from when the lease started 12 years ago? Or is it fine to only give the total annual value for the current lease period?**

    As long as the public authority has accurately gazetted the lease terms and actual values paid under the original and prior extensions, the public authority may re-set the total value to represent the current lease period. The public authority should list any prior gazette notice numbers at the end of this year's notice, so it is plain to the public how the public authority has publicly reported on the earlier contract years.

    You can find more information about calculating total contract value for gazetting, in the Office of Project Management and Procurement's Code of Practice for Project Management and Procurement; the ICO's PATI Annual Return Guidance and ICO's Reference Guide to Gazetting Qualifying Contracts.

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