# Guidance

PATI Annual Return to the ICO (Part 2 and section 58(3))

December 2025

# Table of Contents


Overview ..... 3

What is the PATI Annual Return? ..... 3

Form 1 - PATI Request Report ..... 4

Form 2a and Form 2b - Proactive Disclosure Reports ..... 5

- Form 2a – Proactive Disclosure Report (PATI request log, information statement & provision of other information) ..... 6
- Form 2b – Proactive Disclosure Report (expenditures & qualifying contracts) ..... 7

Guidance for gazetting qualifying contracts ..... 8

- How to gazette ..... 8
- Multi-year contracts ..... 9

Savings for exempt information ..... 10

Outstanding requirements from PATI Annual Return ..... 11

Enforcement ..... 11

More information ..... 12

## Overview

1. The Information Commissioner's Office (ICO) issues this Guidance for public authorities pursuant to sections 7(1)(a), 8(1), 10 and 51(1) of the Public Access to Information (PATI) Act 2010. The purpose of this Guidance is to guide and assist public authorities as they complete the requirements of the PATI Annual Return to the ICO (PATI Annual Return).

2. In addition to this Guidance, the ICO maintains an updated webpage dedicated to the PATI Annual Return process. There you will find links to the Annual Return forms, FAQs, other resources, templates and our privacy notices.

## What is the PATI Annual Return?

3. The PATI Annual Return serves two essential functions: (1) to collect information about the total PATI requests processed across all public authorities; and (2) to allow public authorities to demonstrate to the ICO that they are meeting their basic obligations under the PATI Act.

4. The PATI Annual Return period covers the calendar year, from 1 January to 31 December.

5. In December of each calendar year, the ICO begins the process of collecting PATI Annual Returns from all public authorities. Every public authority, as defined by the Schedule to the PATI Act, is required to complete and submit a completed Annual Return to the ICO by the set deadline, which is typically the first business day in January. The ICO offers a grace period until mid-January to receive completed PATI Annual Returns from public authorities.

6. A notice of this requirement is emailed to all information officers and heads of public authorities in the first week of December and a government notice is published in the Official Gazette. A dedicated webpage on our website, ico.bm, contains all forms, guidance and an updated list of public authorities.

7. Public authorities should review the contents of the PATI Annual Return package carefully. The ICO will highlight any changes to the Annual Return process as part of its rollout of the PATI Annual Return package each year. The PATI Annual Return has been updated (December 2025) to consist of three forms:

    - Form 1 – PATI Request Report; submitted by email to stats@ico.bm or uploaded in Form 2a submitted via SurveyMonkey
    - Form 2a – Proactive Disclosure Report (PATI request log, information statement & provision of other information); submitted via SurveyMonkey
    - Form 2b – Proactive Disclosure Report (expenditures & qualifying contracts); submitted via SurveyMonkey.

8. Public authorities should use the PATI Annual Return process as an annual reminder to review their PATI requirements and address any outstanding items, such as updating their Information Statement and PATI logs, and to check for gazetting details of their qualifying contracts for the calendar year and generally.

9. The PATI Annual Return period also presents an opportunity for public authorities to review their records management to identify and audit what records and information they actually hold and consider making more information about the public authority's activities or functions proactively available without the need for the public to make PATI requests.

## Form 1 - PATI Request Report

10. The PATI Annual Return collects information from public authorities about the disposition of PATI requests processed during the calendar year on **Form 1** – PATI Request Report.

11. This is mandated by section 58(3), which requires all public authorities to provide a written report to the Information Commissioner detailing certain information about any PATI request they received during the reporting year and for any request that was carried over from the prior year.

12. The ICO uses the PATI Annual Return to collect this data so that public authorities have a simple, unified way to meet this statutory requirement. It is expected that information officers will be sufficiently aware of their public authority's PATI requests to complete the form with relative ease; but it can also be completed by the head of public authority or by another person who has a delegated role to assist the information officer.

13. Form 1 is an interactive Word document which solicits responses from public authorities for information required by section 58(2), essentially:

    - the number of PATI requests received by a public authority and their disposition,
    - the number of times a public authority invoked an exemption in Part 4 of the Act, and
    - the number of applications for internal review and their disposition.

14. Form 1 is designed to capture this information in a user-friendly manner by using dropdown cells arranged in columns for each PATI request. Each column asks for each PATI request's identifying information, relevant dates and disposition status as at 31 December.

15. Public authorities are reminded that their PATI request log must exclude the names of requesters, any other information that could reveal the identity of the requester, and any personal information about any person.

16. Once collected and collated, this information is analysed by the ICO and reported in the ICO's Annual Report, which is presented to the House of Parliament and the Senate before 31st March each year.[1]

## Form 2a and Form 2b - Proactive Disclosure Reports

17. The PATI Act strengthens the public's access to information by requiring public authorities to make certain information available as a matter of course, without the need for a PATI request. These duties and obligations for public authorities are set out in Part 2 (Provision of Information by Public Authorities) of the PATI Act.

18. The Information Commissioner fosters and encourages publication of information of relevance or interest to the public in relation to the activities and functions of public authorities in addition to the information that is specifically required to be published by Part 2 of the PATI Act.

'Proactive publication' means that information is readily available to the public, without the need to make a PATI request.

19. The PATI Annual Return provides a mechanism for public authorities to demonstrate to the Information Commissioner that they have fulfilled their basic Part 2 obligations. This allows the ICO to monitor public authorities' compliance with Part 2 and to provide guidance, when needed, to a public authority to bring itself into compliance. If non-compliance persists, the Information Commissioner will exercise the statutory powers provided in sections 7 and 8 of the PATI Act to order compliance.

20. Part 2 of the PATI Act requires all public authorities to:

- publish an up-to-date Information Statement (section 5),
- provide information to the general public about information it holds on an annual basis via media or online fora (section 6(1)),
- keep a PATI request log (without any information identifying requesters or other individuals) indicating whether a request was granted or refused, including the reasons for refusal (section 6(2) and 6(3)),
- have their PATI request log available to the public on request (section 6(4)),
- have quarterly expenditures readily available for the public (section 6(5)), and

[1] Section 58(1) of the PATI Act requires the ICO's Annual Report to be laid before each House of the Legislature.

- publish in the Official Gazette details of all their contracts for goods or services with a total value of $50,000 or more (section 6(6)).

21. PATI Annual Return information that documents public authorities' Part 2 compliance is collected on Form 2a and Form 2b:

    - Form 2a – Proactive Disclosure Report (PATI request log, information statement & provision of other information), collects responses from public authorities about their Information Statement, PATI request log and efforts to proactively publish information in the media or online.

    - Form 2b – Proactive Disclosure Report (expenditures & qualifying contracts), collects responses from public authorities about the public availability of their quarterly expenditures and their gazetting of contracts with a total value of $50,000 or more.

22. Form 2a and Form 2b are completed via responses to the respective SurveyMonkey questionnaire.[2]

### Form 2a – Proactive Disclosure Report (PATI request log, information statement & provision of other information)

23. Form 2a seeks responses to confirm that each public authority's Information Statement is complete, updated annually, and made available to the public in hardcopy and electronic form at locations published in the Official Gazette (section 5).[3]

24. Form 2a asks public authorities to confirm that their up-to-date PATI request log is available for public inspection (section 6(2)-(4)). This can be verified by uploading a copy of the up-to-date PATI request log for the reporting year, or by uploading the public authority's completed PATI Annual Return Form 1, which captures information required by the PATI request log.

25. In Form 2a, public authorities are invited to share their proactive publication activities during the year. How has the public authority proactively provided information to the public about information it holds or information on how to access information it holds? This is required by section 6(1), so that the public has minimum need to make a PATI request. Public authorities can proactively publish this kind of information about itself by print media, radio, television, or online.

[2] Read our privacy notice on our website, ico.bm, to learn how the ICO will use and store limited personal information as part of the 2025 PATI Annual Return.

[3] See the ICO's *Guidance on Information Statements* (2023).

26. Making more proactive disclosures or making public authority records and information more accessible to the public might look like, for example, publishing additional operational information on the authority's website, such as meeting minutes, policy documents, procedures, decisions, credit card statements or registers of interest, etc.

27. The ICO also encourages public authorities to utilise digital innovations to put more information into the public domain, for example, by digitising records and forms. The Information Commissioner highlights in the ICO's Annual Report public authorities' extra efforts to proactively disclose records/information, innovate and promote transparency, accountability and good governance.

### Form 2b – Proactive Disclosure Report (expenditures & qualifying contracts)

28. Form 2b addresses how the public authority has proactively published information about its expenses and high-value contracts. Specifically, this form confirms that the public authority's quarterly expenditures are available on request and confirms that details of contracts for goods or services with a total value of $50,000 or more were published in the Official Gazette (section 6(5) & (6)).

29. The bulk of Form 2b asks public authorities for details about if they have gazetted any qualifying contracts in the reporting year.

30. Public authorities may not have gazetted details about certain qualifying contracts because they have determined that the information is exempt from disclosure. Section 11 of the PATI Act permits non-disclosure of contractual details if the information is exempt from disclosure according to an exemption under Part 4 of the PATI Act. Public authorities should notify the ICO, in Form 2b, of the number of contracts which were not gazetted because the details were determined to be exempt and to indicate which exemptions were relied upon.

31. The ICO recognises that gazetting of qualifying contracts is an ongoing endeavour, so there is provision in Form 2b for a public authority to indicate it has not fully met the gazetting requirements but intends to do so before 31 March at the end of the fiscal year.

32. Completing Form 2b also requires that a responsible person in the public authority (with responsibility for budget, expenditure and/or contracts) attests that they have reviewed the form and verify that it accurately reports the status of gazetting contracts with a value of $50K or more. This is completed by way of uploading an email or letter from the responsible person attesting to the following:

    *I confirm that I have reviewed the [INSERT: name of public authority]'s contracts for [INSERT: year] and the best of my knowledge the status of the public authority's gazetting of qualifying contracts (required to be gazetted according to section 6(6) of the PATI Act) is accurately reported in Form 2b of the [INSERT: year] PATI Annual Return.*

## Guidance for gazetting qualifying contracts[4]

33. Public authorities should take particular care when confirming its compliance with the obligation to gazette the details of qualifying contracts. As mentioned above, section 6(6) of the PATI Act requires the details of all contracts for goods or services with a total value of $50,000 or more to be gazetted on a regular basis. The regularity of gazetting will depend on the volume or nature of contracts that a public authority engages in, but it is recommended that qualifying contracts are gazetted quarterly or, at a minimum, annually in preparation for the PATI Annual Return.

34. Demonstrating compliance with section 6(6) can require technical expertise of the person(s) responsible for budget, expenditure and/or contracts. As such, it is highly recommended that the person responsible assist the information officer and the head of public authority with meeting this requirement. As indicated above, Form 2b requires the sign-off from the person responsible, as reviewing contracts may not be part of the information officer's day-to-day responsibilities.

35. The required details of the contracts being gazetted must include the:

    - name of the contractor (or vendor),
    - monetary value of the contract,
    - goods and services being provided under the contract, and
    - time for performance of the contract, e.g., the completion or delivery date.

36. Contracts without a specific date of delivery should be marked as 'ongoing' in the gazette notice. For example, a contract for legal counsel for representation during legal proceedings may not have a fixed delivery or completion date.

### How to gazette

37. Under existing government procedures, completed gazette notices are sent to the Cabinet Office to be published on the Official Gazette website. The Cabinet Office's *Public Access to Information Administrative Code of Practice for Public Authorities* (2025), pages 31, 32 and 97, provides further details about gazetting information for qualifying contracts, including a template government notice at appendix III.

38. Public authorities are also welcome to advertise the details of their contracts in the newspaper or on their website or via social media. These types of advertisements, however,

[4] This section was prepared in consultation with the Government of Bermuda's Office of Project Management and Procurement for its expertise on how to calculate a contract's total value and its professional knowledge and technical expertise concerning best practices for public procurement and transparency.

do not substitute the statutory requirement for the publication of the contract details in the Official Gazette.

### Multi-year contracts

39. Persons responsible for identifying contracts requiring gazetting should be familiar with the guidance from the *Code of Practice for Project Management and Procurement* (2020) which is issued by the Government of Bermuda's Office of Project Management and Procurement. Section 8 of that Code is particularly instructive because it outlines how to calculate the total value of a contract for goods or services.

40. With that foundation, the ICO sets out additional guidance for determining when to gazette multi-year contracts and what, if any, additional information may be required to be included in the gazette notice.

41. If a public authority has a multi-year contract or a contract with an 'evergreen clause' (i.e., a clause which allows an automatic extension of a contract without amendment), the public authority must publish the details of the contract where the total value of the contract is $50,000 or more.

42. Where the total value of any contractual engagement with a vendor reaches $50,000 within three consecutive years, it qualifies to be gazetted. The cumulative value matters.

43. When the total value of the contract is known at the time of engagement, the public authority should publish an initial gazette notice of the contract details in year 1 representing the original contractual terms. For example, the public authority has entered into a three-year contract for a total value of $200,000, covering services from 1 April 2018 to 31 March 2021, with $67,000 to be paid in years 1 and 2 and $66,000 in year 3'.

    a. If the actual values paid and the terms do not vary from what was gazetted as the original terms, the public authority does not need to gazette any follow-up notice for years 2 and 3. The initial gazette notice will suffice to publicly report the contract as required under the PATI Act.

    b. If the contract is amended with effect in year 2, with an increased value for the annual amount in years 2 and 3 as well as for the overall cost, then the public authority must publish a follow-up gazette notice. The year 2 notice should explain the revised terms and refer to the year 1 notice. If the revised terms as gazetted in year 2 stay the same for year 3, the public authority does not need to gazette any follow-up notice for year 3. Here, the year 1 and 2 notices publicly report the contract as required under the PATI Act.

c. If savings were achieved in year 3, meaning the actual value paid was not as gazetted in the year 2 notice, the public authority must publish a follow-up gazette notice. The year 3 notice should state the revised year 3 cost, state the contract's revised total value and refer to the prior notices for years 1 and 2. Here, the years 1-3 notices publicly report the contract as required under the PATI Act.

44. If an evergreen clause takes effect at the end of an original three-year contract, the public authority must publish a gazette notice to confirm the terms and cost in place for year 4, with reference to its prior gazette notices covering years 1-3.

45. Where the term of a contract is variable (e.g., when engaging a law firm for various legal services), the public authority must gazette the contract details with the actual paid value once the payment amount has exceeded the threshold of $50,000 within a three-year period. If a monetary cap was set in the terms, this must be stated in the notice. Once the service is delivered in full, the public authority must gazette the actual total value of the contract with reference to any initial gazette notice.

46. If the public authority has an ongoing relationship with a vendor that covers many years and several multi-year contracts (e.g., a rental lease or property maintenance contract), the public authority may start afresh with its upcoming gazette notice in terms of calculating the contract's total value and start date (i.e., reset to year 1), where all prior qualifying contracts have been accurately gazetted for the public's ease of understanding. Listing the prior gazette notice numbers at the end of the latest gazette notice is helpful.

47. When the value of a contract is in doubt, public authorities should document their efforts to determine the contract's total value. For example, a government department should retain its email correspondence with its Accounting Officer or Ministry Controller documenting its query about a contract's value and the response.

## Savings for exempt information

48. Section 11 of the PATI Act explains that nothing in Part 2 of the PATI Act requires a public authority to publish or provide the public with information that constitutes an exempt record. An exempt record is a record that falls within any of the exemptions in Part 4 of the PATI Act.

49. For example, if the Bermuda Police Service had a contract with an individual to provide services as an undercover intelligence analyst, then contract details such as the name of the contractor and dates of the services may fall within one of the law enforcement exemptions in section 34 of the PATI Act. If that is the case, the Bermuda Police Service should notify the Information Commissioner in their PATI Annual Return Form 2b of the number of contracts with details that are exempt and the applicable exemption.

## Outstanding requirements from PATI Annual Return

50. At a minimum, the Information Commissioner expects public authorities to report honestly on the current status of their compliance with Part 2 obligations and to identify any outstanding requirements.

51. In the PATI Annual Return responses, if applicable, public authorities should notify the Information Commissioner of when it expects to complete any outstanding requirements. When completing Form 2a and Form 2b, public authorities are asked to commit to completing any outstanding compliance items by 31 March at the end of the fiscal year.

52. The ICO continuously monitors public authorities' compliance based on the Annual Return responses and other insights. Public authorities are reminded that the Information Commissioner may provide direct guidance or issue an order to bring a non-compliant public authority into compliance (per sections 7 and 8 of the PATI Act).

## Enforcement

53. The Information Commissioner takes a progressive approach to compliance and enforcement, as explained in the ICO's *Compliance Enforcement Policy and Handbook* (2023). Through the PATI Annual Return process, a public authority has an opportunity to explain the status of its efforts to bring itself into compliance with the requirements set out in Part 2 of the PATI Act.

54. The Information Commissioner will attempt to reach an agreement with the public authority on a reasonable timeframe to bring itself into compliance. The Information Commissioner will also provide appropriate guidance throughout.

55. If a public authority disagrees with the Information Commissioner or in the unlikely event that a public authority otherwise refuses to meet its obligations under Part 2 of the PATI Act, the Information Commissioner will use the full authority in sections 7(2) and 8(2) of the PATI Act to issue an order and enforce compliance.

56. Any order issued by the Information Commissioner under section 7(2) or 8(2) is legally binding upon the public authority and is enforceable in the same manner as an order of the Supreme Court, in accordance with section 9 of the PATI Act.

57. Finally, public authorities who fail to submit the PATI Annual Return will be identified as non-compliant in the ICO's Annual Report.

## More information

58. The ICO maintains an updated webpage dedicated to the PATI Annual Return process. There you will find links to the Annual Return forms, FAQs, other resources, templates and our privacy notices.

59. The Information Commissioner's Quarterly Briefing (December 2018) introduced the purposes and value behind the PATI Annual Return process. It is available on the ICO's website, ico.bm.

60. The Cabinet Office's *Public Access to Information Administrative Code of Practice for Public Authorities* (2025) is available on the Government of Bermuda website at gov.bm. If you need more information about the Code, please contact the Cabinet Office's PATI/PIPA Unit at pati@gov.bm.

61. Additional guidance is available from the Government of Bermuda's Office of Project Management and Procurement in its *Code of Practice for Project Management and Procurement* (2020). If you need more information about this Code, please contact the Office of Project Management and Procurement at procurement@gov.bm.

62. If you have questions or need further information about the contents of this ICO guidance, please contact the ICO at 543-3700 or stats@ico.bm. If you have an inquiry about any other aspect of the PATI Act, or public access to information generally, please contact the same number or info@ico.bm.

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