Decision Notice

Decision 05/2026: Ministry of Finance Headquarters

Failure to decide: noncompliance with section 43

Review reference no.: **2026007**
Decision date: **15 May 2026**

Summary

On 9 November 2025, the Applicant asked the Ministry of Finance Headquarters (**Ministry Headquarters**) for records related to sugar tax revenues. The Applicant subsequently asked the Ministry Headquarters for an internal review of its decision on the request. The Acting Senior Investigation Officer[1] has found that the Ministry Headquarters failed to comply with all requirements for an internal review within the six-week statutory timeframe set by section 43(2) of the Public Access to Information Act 2010.

The Acting Senior Investigation Officer has ordered the Ministry Headquarters to comply with its section 43 obligations within 10 working days of the issuance of this Decision.

Background and investigation

1. This Decision is for a 'failure to decide' application for an external review by the Information Commissioner under Part 6 of the Public Access to Information (**PATI**) Act 2010.[2] This Decision by the Acting Senior Investigation Officer addresses a public authority's basic obligation to complete an internal review and notify the requester of its decision within the six-week statutory timeframe, not whether a public authority has properly denied access to a record.

2. On 9 November 2025, the Applicant made a written PATI request to the Ministry of Finance Headquarters (**Ministry Headquarters**) for records related to sugar tax revenues.

3. On 20 November 2025, the Ministry Headquarters issued an initial decision to the Applicant.

4. On 16 December 2025, the Applicant made a timely request for the Head of Public Authority for the Ministry Headquarters to conduct an internal review of the Ministry Headquarters' initial decision. The six-week internal review deadline was 27 January 2026.

5. On 6 March 2026, the Applicant requested that the Information Commissioner conduct a review of the Ministry Headquarters' failure to decide within the six-week statutory time limit.

[1] The Acting Senior Investigation Officer issues this Decision under delegated authority from the Information Commissioner, per section 52A of the PATI Act. For more details, a schedule of delegation is available on ico.bm.

[2] The procedure for this external review follows a Summary Procedure for 'failure to decide' reviews, published March 2026.

6. The application for the Information Commissioner's review was assessed as valid, as it met the criteria in section 45(1)(b) of the PATI Act.

7. The Acting Senior Investigation Officer decided not to attempt to resolve the matter under section 46 of the PATI Act, because an internal review decision with full reason from the head of a public authority is required before a requester can seek an external review by the Information Commissioner under section 45(1)(a). A section 45(1)(a) review considers the substance of the authority's final decision, including exemptions, search efforts or administrative denial, etc.

8. A review was commenced under section 47 of the PATI Act, by notice to each party on 14 April 2026.

9. As required by section 47(4) of the PATI Act, the Ministry Headquarters was invited to make representations, by answering standard investigation questions. The Office of Information Commissioner's (**ICO**) investigation questions addressed whether the Ministry Headquarters had, in fact, met its statutory obligations for an internal review within the statutory timeframe set out in section 43 of the PATI Act. At the same time, the ICO strongly encouraged the Head of Public Authority to issue its decision to the Applicant, if they had not already done so, to meet the requirements of section 43 before the deadline of 16 April 2026.

10. The ICO did not receive submissions from the Ministry Headquarters.

11. The Applicant was also invited to make representations, if they wished to do so. The ICO received submissions from the Applicant, explaining the chronology of their request. The Applicant's submissions restated that the Ministry Headquarters had not met the six weeks' timeframe.

Analysis and findings

Internal review – section 43

12. Section 43 of the PATI Act requires the head of a public authority to conduct an internal review[3] of any decision made by the authority with respect to a PATI request or of any failure by the authority to take any action that it is required to take under the PATI Act:

[3] Section 41 of the PATI Act sets out the scope of an internal review. Section 42 sets the time limit to apply for an internal review.

Conduct of review

*43 (1) An internal review of a decision by a public authority, other than a decision made by the head of a public authority, shall be conducted by the **head of the public authority** concerned.*

(2) The head of the public authority shall within six weeks after receiving an application for an internal review with respect to a request—

*(a) **complete the review** and **make a decision** with regard to the review; and*

*(b) **notify** the **requester** and any third party concerned of—*

*(i) the **decision** and the **reasons** for the decision; and*

*(ii) the **right** of the requester or third party, as the case may be, to **apply to the Commissioner for a review** of the decision under Part 6.*

[emphasis added]

13. To fully comply with section 43(2), the head of a public authority must satisfy *all* the statutory obligations within six weeks of receiving a request for an internal review.

Discussion

14. It is a matter of fact that the Ministry Headquarters did not fully comply with section 43(2) by 27 January 2026; that date being six weeks after the Ministry Headquarters received the Applicant's request for an internal review. The Ministry Headquarters, in fact, had no contact with the Applicant about its internal review decision and provided no factual evidence to the ICO during this review to demonstrate that the Head of Public Authority had taken any steps to conduct an internal review.

15. For these reasons, the Acting Senior Investigation Officer finds that the Ministry Headquarters failed to comply with any of the requirements for an internal review within the six-week statutory timeframe set by section 43(2) of the PATI Act.

16. By the Order attached to this Decision, the Ministry Headquarters is now ordered to satisfy all outstanding obligations of section 43(2), including to complete its review and notify the Applicant of the internal review decision, the reasons for the decision, and the Applicant's right to seek an external review by the Information Commissioner.

Decision

The Acting Senior Investigation Officer finds that the Ministry of Finance Headquarters (**Ministry Headquarters**) failed to comply with the requirements for an internal review within the six-week statutory deadline set by section 43(2) of the Public Access to Information Act 2010.

As set forth in the accompanying Order, the Acting Senior Investigation Officer orders the Ministry Headquarters to complete its review and notify the Applicant of its internal review decision, the reasons for the decision and of their right to apply to the Information Commissioner for a review of that decision, with a copy to the Office of Information Commissioner, by **Monday, 1 June 2026.**

Judicial review

The Applicant, the Ministry of Finance Headquarters and any other person aggrieved by this Decision have the right to apply to the Supreme Court for review of this Decision, in accordance with section 49 of the PATI Act. Any such application must be made within six months of this Decision.

Enforcement

This Decision has been filed with the Supreme Court, according to section 48(3) of the PATI Act. If the Ministry of Finance Headquarters fails to comply with this Decision, the Information Commissioner has the authority to pursue enforcement in the same manner as an order of the Supreme Court.

Decided by Kentisha Tweed, Acting Senior Investigation Officer, 15 May 2026

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