Decision Notice

Decision 07/2026: Ministry of Education Headquarters

Failure to decide: noncompliance with section 43

Review reference no.: **2026009**
Decision date: **27 May 2026**

Summary

On 3 December 2025, the Applicant asked the Ministry of Education Headquarters (**Ministry Headquarters**) for records related to the Bermuda Government's University of West Indies scholarship. 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.

This Decision has not required further action, as the Ministry Headquarters took corrective steps during this external review.

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 3 December 2025, the Applicant made a written PATI request to the Ministry of Education Headquarters (**Ministry Headquarters**) for records related to the Bermuda Government's University of West Indies scholarship.

3. On 14 January 2026, the Ministry Headquarters issued an initial decision to the Applicant.

4. On 21 January 2026, the Applicant asked for the Head of Public Authority for the Ministry Headquarters to conduct an internal review of the Ministry Headquarters' initial decision; however, that request was sent to an email address which did not reach the Head of Public Authority.

5. On 27 January 2026, the Applicant submitted a second email, using a different email address, requesting for the Head of Public Authority for the Ministry Headquarters to conduct an internal review. That request was accepted by the parties as the date of request

[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.

for internal review. Therefore, the six-week deadline to complete the internal review was 10 March 2026.

6. On 17 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.

7. 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.

8. 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 reasons 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.

9. A review was commenced under section 47 of the PATI Act, by notice to each party on 9 April 2026.

10. 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.

11. The ICO did not receive written submissions in reply to the investigation questions from the Head of Public Authority for the Ministry Headquarters. However, the ICO did receive informal communications from the Ministry Headquarters during this review. It was indicated that part of the reason for delay was that the Head of Public Authority was on leave and that the Head of Public Authority had taken some steps to process the request and conduct the internal review.

12. The Applicant was also invited to make representations, if they wished to do so. The Applicant responded that they had no additional information to provide about the lack of an internal review decision. However, the Applicant did note their observation that there seemed to be confusion within the Ministry Headquarters about the appropriate recipient

for the Applicant's request for an internal review and the Head of Public Authority's email address, which may have contributed to the Ministry Headquarters' delay.

13. On 1 May 2026, the Ministry Headquarters issued its overdue internal review decision to the Applicant, and the Applicant provided a copy to the ICO.

Analysis and findings

Internal review – section 43

14. 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:

> ***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]

15. 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

16. It is a matter of fact that the Ministry Headquarters did not comply with section 43(2) because it had not completed the review, made a decision and notified the Applicant of the decision, the reasons for the decision and of the Applicant's right to seek an external review

[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.

by the Information Commissioner, by 10 March 2026. That date being six weeks after the Ministry Headquarters received the Applicant's request for an internal review.

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

18. The Acting Senior Investigation Officer acknowledges that the Ministry Headquarters took corrective measures ahead of the issuance of this Decision to bring itself into compliance with all requirements of section 43(2), by completing its review and notifying the Applicant of its late internal review decision, the reasons for the decision and the Applicant's right to seek an external review by the Information Commissioner.

19. The Acting Senior Investigation Officer also notes that there was evidence provided by both parties of administrative challenges at the Ministry Headquarters which may have contributed to delay and the non-responsiveness to the Applicant's request for internal review. There are no provisions in the PATI Act which permit an extension of time to complete an internal review. The statutory obligation to complete the internal review within six weeks does not stop when an officer is on leave. Adequate cover, acting appointments and other good administration steps must be taken by public authorities to ensure they meet their statutory obligations on time.

20. Additionally, the absence of a formal submission by the Head of Public Authority, as requested by the ICO's standard investigation questions, limited the ICO's ability to fully assess the actions taken by the Head of Public Authority to meet the statutory six-week deadline and restricted the ICO's ability to give full weight and credibility to the informal explanations provided by the Ministry Headquarters during this review.

21. The Head of Public Authority is reminded and encouraged to fully cooperate with the ICO's review process and ensure that deadlines are honoured and met. The Head of Public Authority is also reminded to comply with the ICO's instructions to supply a copy of their internal review decision to the ICO whenever they are subject to a failure to decide review by the Information Commissioner.

22. Given that the Ministry Headquarters had issued an internal review decision prior to this Decision, the Acting Senior Investigation Officer does not need to order the Ministry Headquarters to take any further action.

Decision

The Acting Senior Investigation Officer finds that the Ministry of Education 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.

No order is required for this Decision because the Ministry Headquarters has fully complied with section 43(2) during this review.

Judicial review

The Applicant, the Ministry of Education 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.

Decided by Kentisha Tweed, Acting Senior Investigation Officer, 27 May 2026

Information Commissioner for Bermuda
Maxwell Roberts Building
4th Floor
One Church Street
Hamilton, HM11
www.ico.bm
441-543-3700