Decision Notice

Decision 08/2026: Ministry of Home Affairs Headquarters

Failure to decide: noncompliance with section 43

Review reference no.: **2026010**
Decision date: **1 June 2026**

Summary

On 27 October 2025, the Applicant asked the Ministry of Home Affairs Headquarters (**Ministry Headquarters**) for records related to consultancy services. The Applicant subsequently asked the Ministry Headquarters for an internal review of its failure to make a decision on the request. The Investigative Counsel[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 Investigative Counsel 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 Investigative Counsel 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 27 October 2025, the Applicant made a written PATI request to the Ministry of Home Affairs Headquarters (**Ministry Headquarters**) for records related to consultancy services. The Ministry Headquarters' Head of Public Authority at the time acknowledged the PATI request on the same day.

3. The Ministry Headquarters did not issue an initial decision to the Applicant by the deadline of 8 December 2025.

4. On 8 January 2026, the Applicant made a timely request for the Head of Public Authority for the Ministry Headquarters to conduct an internal review. The six-week internal review deadline was 19 February 2026.

[1] The Investigative Counsel 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.

5. On 30 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.

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 Investigative Counsel 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.

8. A review was commenced under section 47 of the PATI Act, by notice to each party on 22 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 29 April 2026.

10. On 30 April 2026, the ICO received written correspondence from the current Head of Public Authority for the Ministry Headquarters stating that they had no representations to make regarding this review. The Head of Authority, however did explain in their correspondence that they had been in post for just under five months, that they needed more time to research the matter with the former Head of Authority and that they would be out of office and not able to respond before 19 June 2026.

11. The Applicant was also invited to make representations, if they wished to do so. The Applicant did not make any representations.

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:

> ***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 comply with section 43(2) because it had not completed a review, had not notified the Applicant of the decision, the reasons for the decision and of the Applicant's right to seek an external review by the Information Commissioner, by 19 February 2026. That date being six weeks after the Ministry Headquarters received the Applicants request for an internal 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.

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

16. The Investigative Counsel, in closing, addresses the statement made by the current Head of Authority that additional time was required to process the internal review decision due to the change in Head of Authority. These informal statements, not being offered as representations or submissions to the review, have not been assessed by the Investigative Counsel for their evidential value. However, it is noted that while administrative transitions and leadership changes can occur within a public authority, such changes do not alter or suspend the statutory obligations required by section 43(2) of the PATI Act, particularly the requirement to issue an internal review decision within the statutorily prescribed timeframe.

17. As it relates to the Head of Authority's other statement that they are unable to respond until 19 June because of a period of leave, there is no provision under the PATI Act to extend the statutory six-week period, which the Ministry Headquarters is already in non-compliance with. Additionally, there is no scope within the Information Commissioner's procedures for conducting reviews which permits (or gives discretion for) the granting of additional time to a public authority to complete an internal review and satisfy the requirements of section 43(2). For these reasons, the Head of Authority's statement of needing more time to respond cannot be considered by the Investigative Counsel as part of this review.

18. By the Order attached to this Decision, the Ministry Headquarters is now ordered to satisfy all outstanding obligations required by section 43, 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 Investigative Counsel finds that the Ministry of Home Affairs Headquarters (**Ministry Headquarters**) failed to comply with all 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 Investigative Counsel 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 **Tuesday, 16 June 2026**.

Judicial review

The Applicant, the Ministry of Home Affairs 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 Home Affairs 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, Investigative Counsel, 1 June 2026

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