

Decision Notice

Decision 11/2026: Department of Parks

Failure to decide: noncompliance with section 43

Review reference no.: 2026015

Decision date: 24 June 2026

Summary

On 8 January 2026, the Applicant asked the Department of Parks (**Department**) for records related to lifeguard schedules and drownings at local beaches. The Applicant subsequently asked the Department for an internal review of its failure to make a decision on the request. The Investigative Counsel¹ has found that the Department 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 Department 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 8 January 2026, the Applicant made a written PATI request to the Department of Parks (**Department**) for records related to lifeguard schedules and drownings at local beaches.
3. The Department did not issue an initial decision to the Applicant.
4. On 17 March 2026, the Applicant made a timely request for the Head of Public Authority for the Department to conduct an internal review. The six-week internal review deadline was 28 April 2026.
5. On 30 April 2026, the Applicant requested that the Information Commissioner conduct a review of the Department’s 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.

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.

7. The Investigative Counsel³ 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 8 May 2026.
9. As required by section 47(4) of the PATI Act, the Department was invited to make representations, by answering standard investigation questions. The Office of Information Commissioner's (ICO) investigation questions addressed whether the Department 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 15 May 2026.
10. The ICO did not receive representations from the Head of Public Authority in reply to the ICO's investigation questions. However, the Head of Public Authority, offered written submissions explaining the steps taken to commence their internal review. The Head of Public Authority indicated internal confusion with an earlier access request relating to the same subject matter, and that staff leave and additional records needing further consideration contributed to delay. The Head of Public Authority also acknowledged that they had not communicated their findings to the Applicant.
11. The Applicant was also invited to make representations, if they wished to do so. The Applicant confirmed they had no representations to make.

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 review⁴ 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 At the time of this decision the Investigative Counsel held the role of Acting Senior Investigation Officer.

⁴ 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. The Investigative Counsel accepts the Head of Public Authority's submission that they received the Applicant's request for internal review and took active steps to conduct the review. The Investigative Counsel affirms the Head of Public Authority's statements establishing that they had not completed the review and issued a decision to the Applicant within six weeks.
15. It is therefore a matter of fact that the Department did not fully comply with section 43(2) because it had not fully 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 28 April 2026. That date being six weeks after the Department received the Applicant's request for an internal review.
16. The Investigative Counsel finds that the Department 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.
17. By the Order attached to this Decision, the Department is now ordered to satisfy all outstanding obligations, 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 Department of Parks (**Department**) 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 Department 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 **Wednesday, 8 July 2026**.

Judicial review

The Applicant, the Department of Parks 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 Department of Parks 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, 24 June 2026

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