

ANNUAL REPORT 2017





“The right to know
empowers the public”

Information Commissioner’s Welcome
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2017 HIGHLIGHTS

RIGHTS!

The Public Access to
Information Act 2010
created new rights

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LEARN

How To Make A PATI
Request

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FIRST

The Information
Commissioner issued the
first Decision concerning the
refusal of access to records

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2,400

Views of the video of
the ICO-sponsored
debate for the Bermuda
National Debate Team

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10,000

ICO Facebook page
reaches during
Right to Know Day

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Personal Information

was the most commonly
cited exemption in the initial
response to a PATI request

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87%

of residents believe
the PATI Act is
important to them

See page 19



67%

of residents believe
public authorities will
become more open and
accountable because
of the PATI Act

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22

New applications
for a review by
the Information
Commissioner

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50/50

The Information
Commissioner's
Decision outcomes
divided evenly for
requesters and public
authorities

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136

New PATI requests
received by public
authorities

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47%

of public authorities'
initial responses to a
PATI request granted
access in whole or
in part to the public
records

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“The right to access information is
an opportunity for those who are
governed to hold accountable those
who govern . . .”

Looking Ahead - See page 40

The Information Commissioner
safeguards the right of access to
public information and strengthens
the accountability of Bermuda's
public authorities.





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WELCOME

As Bermuda's first Information Commissioner, I am honoured to lead this new good governance institution. As my Office increases its oversight and enforcement of the Public Access to Information (PATI) Act, we frequently find ourselves explaining the role of the Information Commissioner and our work. My 2017 Annual Report is an opportunity to share this information more broadly.

To appreciate the Commissioner's role, we must start with the rights under the PATI Act. First and foremost, the PATI Act grants Bermudians and our residents the right to access records held by Bermuda's public authorities, unless the PATI Act allows the public authority to refuse the access. When a valid PATI request is made, the public authority will usually provide the records it has. In limited cases, a public authority may rely on one of the specific reasons listed in the PATI Act that allows it to deny access to its records. Unless one of these reasons applies, public records must be released to the public. This is the case even if the requested record is incorrect, would be misleading, or is potentially embarrassing.

The provisions of the PATI Act set the parameters for whether or not a record must be released in response to a PATI request. The Act also outlines categories of information that public authorities must automatically or routinely make public. My 2017 Annual Report explains in detail the rights and obligations the PATI Act creates.

Before the Act, public authorities could, and often did, operate behind closed doors. It was widely believed that the reasons for decisions did not need to be shared publically. Information, databases and records in public authorities were often treated as 'owned' by the person who created or managed them. Even the most basic information—such as organisational charts—was oftentimes not readily available to the public.

Democracy requires an informed public whose engagement in public debate on matters of public interest is not dependent upon the voluntary willingness of a public authority to be open about its information, challenges, and programs. The PATI Act initiated a profound cultural change between the community at large and public authorities. The right to know empowers the public.

The right to access public information is as fundamental to a modern democracy as the right to vote.

In this context, the Information Commissioner provides essential oversight to guarantee and enforce the rights under the PATI Act. When a public authority denies access to a public record, the requester has the right to ask the Information Commissioner for an independent examination of that decision. The Information Commissioner will determine if the public authority's denial of access is justified, and take steps to enforce her decision if required.

Through oversight and enforcement of the PATI Act, the Information Commissioner safeguards the right of access to public information and strengthens the accountability of Bermuda's public authorities.

The Information Commissioner safeguards the right of access in two ways:

- Ensures that if a public authority incorrectly denied access to a record, it is required to disclose the record.
The Information Commissioner will issue a legally-binding decision and, if necessary, will enforce it on behalf of the public.
- Ensures that the boundaries around the right of access are preserved.
The fact remains that public authorities should not disclose every piece of information they hold, and the PATI Act lists the appropriate reasons public authorities can rely upon for refusing to disclose a record. In these instances, the Information Commissioner upholds a justifiable denial of access. The Information Commissioner's review assures the public that an independent authority has looked at the records, heard the public authority's arguments, and accepted the denial of access.

The Information Commissioner's oversight is also critical for fulfilling the PATI Act's purpose: to increase the accountability of government to the people. Public authorities know that even if they properly deny access to a record, they must still justify their decision to the independent Information Commissioner. This ensures that a public authority remains fully accountable

for its PATI decisions, even when the requester doesn't receive the records.

I have a deep appreciation for the profound cultural change that the PATI Act represents. The Information Commissioner's mandate is to uphold the standards and rights under the Act, while simultaneously appreciating the difficult challenges the changes bring. In navigating these waters, my focus will always be to safeguard the PATI Act's robust right of access. At the same time, my Office provides guidance to individuals, Information Officers, public authorities, community groups and others to help people understand how the Act works. This involves helping public authorities learn how to adapt to a more open way of conducting business. My Office also encourages the public to understand its new right to request public information and its ability to hold public authorities accountable.

The mandate of the Information Commissioner continues to be a formidable task. The PATI Act is a catalyst for cultural change that will be ongoing for many years. To fulfill her mandate while facing these challenges, it is crucial that the Information Commissioner remain independent of Government and political influence, to hold robust investigation and enforcement authority, and to deepen engagement with both the public and public authorities.

I am proud to share my Office's efforts in these regards in this Annual Report. We continue to strengthen the institutional framework of the Office to provide Bermuda with a strong oversight body for the PATI Act. My Office has also embraced engaging with our stakeholders as effectively as possible through ongoing educational events, our website resources, creative outreach, publications, and one-on-one discussions. Throughout this year, this work was supported by Sean Murray, Director of Research and Quality Assurance at the Office of the Information and Privacy Commissioner in Newfoundland and Labrador, who served as a short-term consultant for my Office; Junior Watts, our Investigation Officer consultant; and Valeria Tucker, Samantha Knight and Sheena Bassett, who each provided temporary administrative support. I extend my deep thanks to each of them for their contributions and service to the public and public authorities.

Through the work of my Office and the efforts of our stakeholders, Bermuda is establishing a strong access to information regime in which we can all take pride. Central to this regime is the role of the Information Commissioner to safeguard access to public information and strengthen the accountability of public authorities to our public.

[Gitanjali S. Gutierrez](#)
Information Commissioner



THE INFORMATION COMMISSIONER'S OFFICE

Mandate

The Information Commissioner is responsible for promoting public access to information and overseeing compliance with the PATI Act's requirements.

The Information Commissioner meets her mandate under the PATI Act by:

- Raising awareness of the rights under the Act and how to use them;
- Providing general guidance to public authorities about their responsibilities under the Act;
- Overseeing and enforcing compliance with the PATI Act; and
- Investigating, deciding and enforcing applications for review of public authorities' handling of PATI requests.

The Information Commissioner's Office is an independent public office. This means that the Information Commissioner carries out her mandate guided by principles of independence, integrity and fairness.



Find out more about the legislation at
www.ico.bm/laws-regulations



Mission

The Mission of the Information Commissioner's Office is to work for all of the people of Bermuda to ensure access to public records within the provisions of the PATI Act. Our mission supports the Information Commissioner's mandate.

The Information Commissioner's Office seeks to achieve a number of objectives each year:

- Promote positive cultural change within the public and public authorities in response to the new rights created by the PATI Act;
- Promote the effective and responsible use of PATI rights through public awareness and education for the public;
- Encourage and enable public authorities to develop and achieve best practices in their PATI Act policies, procedures and practices through a combination of oversight and guidance;
- Conduct fair, just and expeditious reviews of public authorities' decisions under the PATI Act, which result in resolution or legally enforceable decisions;
- Influence and support the development of Bermuda's information law and policy to ensure the effectiveness of the PATI Act regime as well as comment on its interaction with other laws; and
- Act independently of the Government for all areas covering our statutory mandate and continually strengthen our Office's independent functioning.



From left to right: Sean Murray, Answer Styannes, Sheena Bassett, Information Commissioner Gitanjali S. Gutierrez and Junior Watts. (Not pictured: Jason Outerbridge)

OUR TEAM

GITANJALI S. GUTIERREZ

Information Commissioner for Bermuda

JASON D. OUTERBRIDGE

Assistant Information Commissioner

SEAN MURRAY

Senior Consultant [Temporary]

ANSWER STYANNES

Investigation Officer

JUNIOR WATTS

Investigation Officer [Temporary]

TIKITTA SUHARTONO

Office Manager

SHEENA BASSETT

Administrative Assistant [Temporary]



Information Commissioner
Gitanjali S. Gutierrez and
Tikitta Suhartono

The Information Commissioner
carries out her mandate guided
by principles of independence,
integrity and fairness.





THE PUBLIC ACCESS TO INFORMATION ACT 2010

The PATI Act was passed in 2010 after more than seven years of policy work and public consultation. It came into effect on 1 April 2015. According to the PATI Act, public records now belong to the public. Authorities must provide access to public records unless the records fall within one of the reasons listed in the PATI Act that allows a public authority to refuse to disclose the record.

Section 2 of the Act lays out its purposes to:

- Give the public the right to access public information to the greatest extent possible, while remaining consistent with reasons listed in the PATI Act that allow a public authority to refuse access;
- Increase transparency and eliminate unnecessary secrecy with public information;
- Increase the accountability of Bermuda's public authorities;
- Inform the public about public authorities' activities, including how and why decisions are made; and
- Routinely place more information in the public domain.

To achieve these purposes, the PATI Act creates a number of new rights for Bermudians and residents, as well as enhanced obligations on public authorities.

THE PUBLIC ACCESS TO INFORMATION ACT 2010

Right of Access

RIGHT TO ACCESS RECORDS – SECTION 12

A 'record' under the PATI Act includes information that is recorded in any format. The record could be paper documents, tapes or film, or electronic files.

EXAMPLES OF PUBLIC RECORDS

include paper and electronic copies of memos, letters, assessments or any written document; maps and diagrams; photographs, film, microfilm, videotape, sound recordings; and emails.

Every Bermudian and resident of Bermuda has the right to access records held by a public authority, unless the record falls within an 'exemption' in the Act. If only some of the information in a record is exempt, the public authority must provide access to the other parts.

AN 'EXEMPTION'

is one of the specific reasons listed in the PATI Act that allows a public authority to refuse access to a record.

A public authority must disclose any public record it holds unless it can show that one of the reasons listed in the PATI Act applies which allows it to refuse access. The public authority also must:

- ✓ keep the requester's identity confidential
- ✓ assist an individual who is making a PATI request
- ✓ provide a complete, accurate and timely response to the PATI request

RIGHT TO A DECISION ON THE PATI REQUEST – SECTION 14

A PATI requester has a right to a timely decision. The decision must:

- ✓ state whether access will be granted or denied for all or part of the record
- ✓ explain the reasons why, including the relevant facts or arguments and any public interest factors considered
- ✓ inform the PATI requester of the rights to appeal and review of the decision

RIGHT TO SEEK INTERNAL REVIEW – SECTION 41

A requester may not be satisfied with the public authority's decision or handling of the PATI request. If so, the requester has the right to make a written request for an internal review by the head of the public authority. It must be made within six weeks of receiving the decision.

Sometime a PATI request may be overlooked. If a requester doesn't receive an initial decision or a notification that the public authority has taken an extension of time with six weeks of the request, this is deemed to be a refusal. A requester may go on to ask for an internal review.

The public authority must issue an internal review decision within six weeks. The decision must explain the reasons why it is upholding or changing the initial decision, or if any other corrective action is needed. The internal review decision must also explain to the requester their rights to an independent review of the decision by the Information Commissioner.

THE PUBLIC ACCESS TO INFORMATION ACT 2010

RIGHT TO AN INDEPENDENT REVIEW BY THE INFORMATION COMMISSIONER – SECTION 45

If a requester is still not satisfied with the internal review decision or does not receive a decision within six weeks, they have the right to an independent review by the Information Commissioner. Unless the application for review is resolved to the requester's satisfaction within the provisions of the Act, the Information Commissioner must carry out an independent review and issue a legally binding decision. If required, the Information Commissioner will enforce her decision to safeguard the public's rights under the PATI Act.

RIGHT TO SEEK JUDICIAL REVIEW OF THE INFORMATION COMMISSIONER'S DECISION – SECTION 49

Any person or public authority who is aggrieved by the Information Commissioner's decision may apply to the Supreme Court for judicial review. The Supreme Court may confirm, change or replace the Information Commissioner's decision, or send it back to the Information Commissioner for reconsideration.

There are no fees for making a PATI request, receiving electronic copies of records, or seeking an internal review or independent review by the Information Commissioner. There may be fees to receive hard copies of records, as set out in the Government Fees Regulations 1976.

Right to Request to Amend Records of Personal Information

RIGHT TO AMEND OR CORRECT PERSONAL INFORMATION – SECTION 19

A public authority may hold a record containing personal information about an individual that is incomplete, incorrect or misleading. If so, that individual or their representative has a right to make a written request that the public authority amend the record so it is complete, correct and not misleading.

As in the right to access records, individuals making a request to amend records of personal information have the right to a decision, to seek an internal review (Section 41), to apply for an independent review by the Information Commissioner (Section 45) and to seek judicial review of the Information Commissioner's decision (Section 49).

There is no fee for making a request to amend a record containing personal information.

THE PUBLIC ACCESS TO INFORMATION ACT 2010

Proactive Publication

Certain categories of information also must be published by public authorities (or be readily available) even if no one asks for it. This is called proactive publication. It allows the public to obtain basic information about the authorities, without having to go through the process of making a PATI request.

INFORMATION STATEMENT – SECTION 5

Every public authority must publish and update an Information Statement which tells the public about their organisation, what it does and the records it has. It should also list their Information Officer, who is responsible for processing PATI requests.

INFORMATION STATEMENTS

can be found on www.ico.bm or on most public authorities' websites. Hard copies are available at the ICO, Bermuda Archives and the Bermuda National Library.

LOG OF ACCESS REQUESTS – SECTION 6

Each public authority must keep a log of all PATI requests received and the outcomes. Members of the public can ask the public authority to view this log. (It does not contain any requester's names.)

QUARTERLY EXPENDITURES – SECTION 6

Public authorities must have their quarterly expenditures readily available for public access upon request.

CONTRACTS OVER \$50,000 – SECTION 6

Public authorities must publish in the official Gazette details for all of its contracts for goods or services with a value greater than \$50,000 for the duration of the contract. Public authorities should review and publish this information on a "regular basis".

SALARY RANGE OF EVERY PUBLIC OFFICER POSITION – SECTION 6

Every January, the Government of Bermuda must publish on its website the title and salary range of all public officer positions. This information is also available for inspection at the Bermuda Archives and the Bermuda National Library.



HOW TO MAKE A PATI REQUEST

Where to Start

Decide what records you want. Think about the information you are looking for.

How does a public authority record that information? It may be in a report, policy memo, manual, budget, procurement documents, letter, minutes of meetings, email, etc.

Figure out which public office has it. Give your request to the public authority that you think has the records you want.

There are over 200 public authorities in Bermuda. A good place to start is to browse or search the ICO's website, www.ico.bm, or the website of the public authority. If you are not sure where to submit your request, you can ask. Public authorities have a statutory duty under the PATI Act to assist requesters. This includes helping a requester find the right office or transferring a request to the correct office. Requesters can also contact the ICO for information about public authorities.

Make your request to the public authority. Each public authority has an Information Officer who is responsible for processing your request.

Contact details of the Information Officer can be found in the public authority's Information Statement. Sending your request directly to the Information Officer would be helpful to the public authority. If you cannot find or contact the Information Officer, you are still able to make a PATI request. Your request can be made to anyone in that public authority, who is required to direct it to the Information Officer for processing.

HOW TO MAKE A PATI REQUEST

What to Include in your Request

Put it in writing. Your request must be in writing.

Requests can be made by letter or email. Some public authorities may ask you to complete a PATI Request Form. This is not mandatory but can be very helpful for their efficient processing of your request.

A sufficient description of the records. The public authority must be able to figure out what you are looking for.

Be specific. Give as much detail as you can about the information you want. Your request must clearly describe the records so that the public authority can identify the records. If you are not specific enough, the public authority must contact you for help to understand your request.

Say how you want to receive the information. You have the choice in how you want to receive the records.

Keep in mind the public authority may charge you a fee for hard copies of records. Consider asking for an electronic copy, which is free of charge.

What if the Public Authority Denies your Request?

Decide if you agree with its reasons. Read the decision and decide whether or not you agree with the reasons the public authority gave you. If you agree with the reasons for not giving you all (or part) of a record, or you are happy with the records it has given you (even if it is not all the records you asked for) then you should not need to take any further action. If you disagree with the decision, you can take further action.

Ask again. If you are not happy with the outcome, you can ask the public authority for an internal review of the decision. The initial decision should tell you how to ask for the internal review. If it does not, you can call the public authority. You can also send your request for an internal review to the Information Officer or anyone within the public authority who must pass it on to the Head.

Appeal. If you disagree with the internal review decision (or do not receive it within the deadline), you can ask for the Information Commissioner to conduct an independent review and make a legally binding decision. To file an application for review with the ICO, simply send us a written request. You can send an email to info@ico.bm or drop off a hard copy of the request at our office.



Information Commissioner's Office is located at:
Valerie T. Scott Building, 60 Reid Street, Hamilton, HM12



WHAT WE DO

Strengthening the Right: Raising Awareness

(1 APRIL 2017 – 31 MARCH 2018)

EDUCATION PROGRAMMES

This year the ICO focused its education programmes on two major events: sponsoring a Spring debate for the 2017 Bermuda National Debate Team and a Right to Know Week panel with representatives from the media and advocacy organisations. The Information Commissioner also provided smaller educational programmes throughout the year for organisations such as the Bermuda Lifelong Learning Program.

In April 2017, the Information Commissioner's Office honoured the two-year anniversary of the passage of the PATI Act by sponsoring a public debate by the Bermuda National Debate Team. The Information Commissioner choose a topic for the debate that addressed one of her long-standing criticisms of the PATI Act: whether individuals should be able to file PATI requests anonymously. Members of the 2017 Bermuda National Debate Team included: Yasser Baia [The Berkeley Institute], Sierra Brangman [The Berkeley Institute], Tyrese Coakley [The Berkeley Institute], Cree Dunn [The Bermuda High School], Megan Sutcliffe [The Bermuda High School], and Asha Symons [Warwick Academy].

Top left: Debaters Cree Dunn and Yasser Baia

Top center: Debater Tyrese Coakley

Top right: Debaters Asha Symons and Megan Sutcliffe



From left to right: Tyrese Coakley, Cree Dunn, Yasser Baia, Assistant Information Commissioner Jason Outerbridge, Information Commissioner Gitanjali S. Gutierrez, Bermuda National Debate Team Coach Akilah Beckles, Megan Sutcliffe, Sierra Brangman and Asha Symons

The Bermuda National Debate Team researched and argued their points before a panel of respected judges: former Premier Dame Jennifer Smith, former Member of Parliament Mr. John Barritt, Puisine Judge Mr. Stephen Hellman, Barrister Rod Attride-Stirling, and Assistant Information Commissioner Jason Outerbridge. Bermuda College's Hallett Hall had a full audience with a number of dignitaries in attendance, including his Excellency the Governor John Rankin, former Premier Michael Dunkley, Opposition MP Walton Brown, Magistrate Juan Wolffe, Auditor General Heather Thomas, Ombudsman Victoria Pearman, former Youth Premier Ryan Robinson Perinchief, and other honoured guests. The event was live-streamed by Bernews.com, and had 2,400 views.

The debate was followed by a Q&A with the Information Commissioner and concluded with the announcement of the

winning team Megan Sutcliffe, Sierra Brangman, and Asha Symons.

This educational event provided an opportunity for our future political, community and professional leaders to initiate a discussion of national importance for the PATI Act. At the same time, the Information Commissioner was able to provide the Bermuda National Debate Team with an opportunity to hone their skills while competing in a high-profile setting before departing for their international competition.

Throughout the year, the Information Commissioner also engaged with community groups for formal and informal education programs. For the first time, the Information Commissioner made a PATI Act presentation to the Bermuda Lifelong Learning Program.



Watch the video of the ICO-sponsored Bermuda National Debate Team event on www.ico.bm



WHAT WE DO

ONLINE AND SOCIAL MEDIA OUTREACH

The Information Commissioner's Office's website remains a key element of our education and outreach. This resource provides a listing of Bermuda's public authorities and their Information Statements. Additional helpful information, such as our ICO Exemption Guidance series and our new Monthly Roundups, are also regularly published.

This fiscal year, we saw a steady use of our website. Consistently, we have found that approximately 83% of the users of our website are new users, who may be seeking information about the PATI Act for the first time.

INTERNATIONAL RIGHT TO KNOW DAY

The Information Commissioner's Office commemorated International Right to Know Day with a panel titled "Information in Action!" held at the Bermuda College Library on 28 September 2017. Panelists Qian Dickinson (Bermemes), Jonathan Starling (Greenrock), and Sam Strangeways (The Royal Gazette) joined the Information Commissioner to discuss the power of information.

Each panelist was invited because of the vital role information plays in their work and their awareness of the power of information to shape, transform and inspire. Senior Journalist Sam Strangeways discussed the possibilities opened by the amount of information that was now available for journalists, and the practical challenges and developments she has experienced with Bermuda's new access to information law. Advocate Jonathan Starling emphasised that having information was the key to his evidence-based policy and advocacy work for Greenrock. He shared other panelists' views of the great potential of the PATI Act, expressed hope for increasing proactive publications, and believes environmental groups have only scratched the surface of how the PATI Act can help their efforts. Qian Dickinson discussed the phenomenal development through social media of the power to both curate and create content to shape Bermudian culture. He emphasised the importance of having accurate factual content to support creating new content.

The live-streamed event by Bernews and Bermemes was viewed by nearly 3,500 individuals and our Facebook page reached over 10,000 people during Right to Know Day.



Watch the video of the "Information in Action!" panel on www.ico.bm

Information Commissioner Gitanjali S. Gutierrez, Sam Strangeways, Jonathan Starling and Qian Dickinson

WHAT WE DO

“A reporter who had done a PATI request on an environmental matter showed me the resulting documents and that just opened my eyes to the potential of all the data that we could get...it was a wealth of information...and helped inform our own policy and how we were going to be approaching aspects going forward.”

JONATHAN STARLING
Executive Director, Greenrock

International Right to Know Day was established on 28 September 2002 by advocates around the world to mark the creation of the Freedom of Information Advocates Network. Since then, Information Commissioners, civil society groups, advocates, the media and public bodies celebrate the right to access information and the principles of openness, accountability and transparency.

PUBLIC AWARENESS

At the conclusion of each fiscal year, the ICO commissions a public awareness survey to assist us in evaluating the success of our year. Our annual public awareness survey also helps us determine how to focus our efforts in the upcoming fiscal year.

A comparison of the March 2017 and March 2018 surveys found that:

- Residents continue to believe that the PATI Act is important to them: 87% in March 2018 and 86% in March 2017
- Signalling an improvement in public perception, residents were significantly more likely to believe that public authorities would become more open and accountable as a result of the PATI Act: 67% in March 2018 versus 59% in March 2017
- As a result of the PATI Act, residents were also more likely to have confidence in the decisions made by public authorities: 60% in March 2018 versus 55% in March 2017
- Residents who have requested copies of records or documents from a public authority continue to be satisfied with the responses they received: 87% in March 2018 compared to 90% in March 2017
- The majority of residents still believe that the PATI Act will be useful to them: 55% in March 2018 compared to 54% in March 2017

The full annual surveys and results are available on www.ico.bm.

WHAT WE DO

Strengthening the Right: Providing Guidance

(1 APRIL 2017 – 31 MARCH 2018)

ICO MONTHLY ROUNDUPS

In January 2018, the ICO launched its new Monthly Roundups. This publication assists public authorities and the public to keep up to date with the work of the Information Commissioner's Office. The ICO shares newly released Information Commissioner's Decisions, lessons from informal resolution outcomes, learning opportunities and access to information news both locally and internationally. You'll also find recommendations on how public authorities or the public can improve their PATI practices.

All of the ICO's Monthly Roundups are published on www.ico.bm.

Strengthening the Right: Inquiries

(1 APRIL 2017 – 31 MARCH 2018)

We regularly respond to inquiries from the public or public authorities about how the PATI Act works. This reporting period, we logged 60 emails, phone calls and visitors asking a wide range of questions.

Enforcing the Right: Reviews and Decisions

(1 JANUARY 2017 – 31 DECEMBER 2017)

INDEPENDENT REVIEW BY THE INFORMATION COMMISSIONER

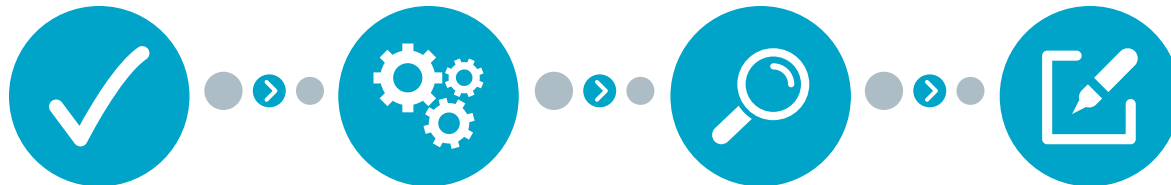
An important part of the PATI Act is the independent review by the Information Commissioner of public authorities' decisions. When the ICO receives an application for an Information Commissioner's review, the application may progress through four stages: validation, early resolution, investigation and decision. You can learn more about each of these stages in our Reviews Policy and Handbook (June 2016), which is available on www.ico.bm.

Applications are usually closed when the Information Commissioner issues a legally-binding decision, or when the application is withdrawn because it has been resolved.



Individuals and public authorities can contact the ICO with questions about the PATI Act at 294-9181 or info@ico.bm

WHAT WE DO



Validation

The ICO ensures that the Information Commissioner has the legal power to consider the review. The applicant must have asked for an 'internal review' by the head of the authority first. This affords the public authority an opportunity to reconsider its decision before the Information Commissioner takes it under review.

Early Resolution

During early resolution, the ICO will assess whether informal resolution or formal mediation processes are appropriate to settle the issues. The ICO takes a resolution-based approach through the entire process. When appropriate based upon the issues and circumstances of the case, resolution will be considered through the entire process, up to and until the Information Commissioner issues a Decision Notice.

Investigation

If the application is not resolved at the outset, it will move to a review and investigation. In most cases, the Information Commissioner will require the public authority provide the withheld material or details of its search process. This allows the ICO to test the public authority's assertion that information is properly withheld under an exemption or that records could not be located.

Decision

Once the ICO staff have conducted a full investigation and made recommendations, the case will be considered by the Information Commissioner and a Decision Notice issued.

The decision may affirm, vary or reverse the decision of the public as well as make any other order consistent with the PATI Act that is appropriate. The Information Commissioner may issue a decision ordering a public authority to disclose an incorrectly withheld record. The decision is legally binding and if the public authority refuses to comply, the Information Commissioner can seek enforcement in the same manner as an order of the Supreme Court.

Any party aggrieved by the decision may seek judicial review.

Enforcing the Act: when we receive an application for a review, it may ultimately progress through four stages: validation, early resolution, investigation and decision.

WHAT WE DO

OUR 2017 APPLICATIONS FOR REVIEW

In 2017, our Office received 22 new applications for an independent review by the Information Commissioner.

Reasons People Asked for a Review by the Information Commissioner

Applicants have the right to ask for a review of the public authority's decision by the Information Commissioner when they are not satisfied with how the public authority handled their PATI request. Often this may be because they were denied access to the records they requested. Applicants may also challenge

whether the public authority's search for the records was reasonable, or whether the public authority assisted them with their request.

One application for review may raise a number of different issues.

In 2017, the commercial information exemptions in section 25 of the Act were the most frequently relied upon exemptions in the applications for an Information Commissioner's review. The remaining challenges involved a number of other exemptions, as listed in the table below.

Challenges Raised In Valid Applications	2015	2016	2017
Number Of New Valid Applications Received During Year	8	30	18
Exemptions			
s.22 Health or safety	1	0	1
s.23 Personal information	2	3	4
s.25 Commercial information	2	4	9
s.26 Information received in confidence	1	9	4
s.27 Cabinet document	1	0	0
s.28 Ministerial responsibility	0	2	0
s.29 Deliberations of public authority	1	2	4
s.30 Operations of public authorities	2	3	3
s.32 National security, defence and international relations	0	0	1
s.33 Governor's responsibilities	0	0	1
s.34 Law enforcement	0	0	3
s.35 Legal professional privilege	0	1	0
s.37 Disclosure prohibited by other legislation	0	2	3
Total	10	26	32

WHAT WE DO

Nearly half of the issues in the 2017 applications for review involved challenges to administrative denials of access. The majority of the administrative denials were cases in which the public authority stated that the records did not exist or it could not locate the records, after taking all reasonable steps to do so. We also saw a noticeable decline in the number of failure to decide cases, in which a public authority does not issue an internal review decision within the statutory deadline. Overall, the 2017 applications for review raised fewer challenges to administrative denials.

Administrative Denials And Other Issues	2015	2016	2017
Failure to decide	3	9	3
Administrative denial	1	10	9
Fees charged	0	0	0
Reasonableness of search	4	10	2
Other (e.g. manner access is given, insufficient assistance given, etc.)	0	6	3
Total	8	35	16

In 2017, we had 30 reviews carry over from prior years as open cases, bringing our total number of open cases in 2017 to 52. Of these 52 open cases, we closed 16 cases as of 31 December 2017 and the remaining 36 were carried forward into 2018.

Our Outcomes	2015	2016	2017
Applications brought forward from previous year	0	7	30
New applications for review	11	32	22
Total caseload	11	39	52

WHAT WE DO

Of the 22 new applications received by our Office in 2017, 4 were invalid because the applicant had not yet sought an internal review from the public authority. These applications for an independent review by the Information Commissioner were submitted too soon. When this happened, we provided the applicants with information on how to ask the public authorities for an internal review.

Applications Closed In Early Stages	2015	2016	2017
Reason for Closure			
Invalid	3	2	4
Early resolution	0	0	0
Abandoned/Withdrawn	0	1	0
Total	3	3	4

Proportions Of New Valid Applications	2015	%	2016	%	2017	%
Valid	8	73	30	94	18	82
Invalid	3	27	2	6	4	18
Total	11	100	32	100	22	100

WHAT WE DO

APPLICATIONS CLOSED DURING INVESTIGATION

If a review is resolved to the applicant's satisfaction during an investigation, the Information Commissioner may accept the applicant's withdrawal of the application.

Applications Closed During Investigation	2015	2016	2017
Reason For Closure			
Resolved	1	1	4
Abandoned/Withdrawn (other)	0	1	2
Total	1	2	6

During the Information Commissioner's investigation, the parties are encouraged to consider facilitated resolution of some or all of the issues under review. The applicant, public authority or Information Commissioner's Office may propose resolution. During the facilitated resolution process, the ICO Investigation Officers will ensure that the public's right to access information is not compromised, and provide assurances to both parties that the requirements of the PATI Act have been met. Facilitated resolution offers an added benefit of flexibility when addressing the applicant's information needs. At the conclusion of this process, the applicant may withdraw some or all of the issues under review.

Facilitated resolution also opens up the lines of communication between public authorities and the applicants which may be lacking during the processing of the PATI request or would otherwise not occur during an investigation. In one case resolved in December 2017, the applicant sought a review by the Information Commissioner because the applicant was concerned that the public authority had acted in bad faith when

it failed to disclose a record with the statutory timeframes. During a resolution process facilitated by the ICO, the public authority explained that it did not release the records sooner because it had relied on an earlier provision in the Act that had been amended by the time of the PATI request. The public authority offered evidence of its genuine mistake. The applicant was satisfied and withdrew the application for review.

Facilitated resolution can happen at any point during the ICO's investigation. Due to a change in circumstances, more experience with the PATI Act or lapse of time, public authorities may change their position on whether or not a record should be disclosed. This happened in two cases that the ICO resolved in January and November of 2017. In both cases, public authorities decided to disclose the responsive records and information to the public while an investigation by the Information Commissioner was ongoing. The applicants found that the disclosures satisfied their PATI requests and withdrew the applications for the Information Commissioner's review.

WHAT WE DO

INFORMATION COMMISSIONER'S DECISIONS

The majority of the reviews will close with a decision by the Information Commissioner. The decisions explain the Information Commissioner's reasoning and findings. A decision is legally binding and subject to judicial review by an application to the Supreme Court. The Commissioner issued the following decisions during 2017.

Decisions	2015	2016	2017
Decision Outcome			
For requester	0	5	2
For public authority	0	0	2
Partially upheld	0	0	1
Total	0	5	5



The Information Commissioner's
decisions are available at www.ico.bm

WHAT WE DO

Failure to decide cases

This year the Information Commissioner continued to issue decisions in three 'failure to decide' or 'FTD' cases. In these cases, the Information Commissioner addressed a public authority's failure to decide a request for an internal review. When the Information Commissioner finds that the PATI requester asked for an internal review and did not receive one within the six-week statutory timeframe, the Information Commissioner orders the public authority to respond to the applicant. Our FTD investigations and decisions help increase public confidence in the rights under the PATI Act.

In two cases, the Information Commissioner found that the public authority failed to make an internal review decision. In 01/2017, the *Ministry of National Security* complied with the Information Commissioner's Order to issue a decision. In 02/2017, the *Public Service Commission* issued an internal review decision during the course of the investigation and the Information Commissioner did not require it to take any further steps.

In the final FTD case, 03/2017, *Department of Public Prosecutions* (DPP), the Information Commissioner decided partially for the Applicant and partially for the DPP. The DPP had not provided an initial response to a PATI requester. The requester had mistakenly sent the request for an internal review to the Permanent Secretary for Legal Affairs. The Information Commissioner accepted the DPP submissions that the Permanent Secretary was not part of the DPP for PATI purposes. Because DPP never received the request for an internal review, it was not obligated to issue an internal review decision. Notably, during the ICO's investigation, the DPP emphasised that it views its responsibilities under the PATI Act as important. It demonstrated its commitment to compliance with the Act by disclosing the records to the Applicant during the course of the ICO's investigation, which satisfied the Applicant.

Substantive cases

This year marked the start of the Information Commissioner's substantive decisions. In these cases, the public authorities have refused access to records based on 'administrative denials', such as when a public authority cannot find a record or does not create the type of record the requester asked for. The cases may also involve refusals of access when the public authority relied upon an 'exemption', which are the reasons listed in the PATI Act for not disclosing a record.

Each of the Information Commissioner's decisions is based on the specific facts and circumstances of the PATI request and records in that case. The Decisions also set out the tests and standards for different provisions in the Act.

In Decision 04/2017, *Department of Health*, the Information Commissioner upheld the Department of Health's denial of access to witness statements. The Information Commissioner set out the test for determining when public authorities can apply section 16(1)(a) to deny a PATI request because the records do not exist after all reasonable steps have been taken to locate them. After considering the measures the Department of Health had taken to look for the records, the Information Commissioner was satisfied that the Department of Health had not created the records in the first instance, and was justified in denying access under section 16(1)(a).

The Information Commissioner also upheld the denial of access to ultimate beneficial ownership information in Decision 05/2017, *Bermuda Monetary Authority*. The Information Commissioner found that section 31(1) of the Bermuda Monetary Authority Act 1969 prohibited disclosure of most of the records responsive to the PATI request. This justified the Bermuda Monetary Authority's reliance on the exemption in section 37(1) of the PATI when disclosure is prohibited by other legislation.

WHAT WE DO

CUMULATIVE CASELOAD

Since the enactment of the PATI Act, the total cumulative caseload for the Information Commissioner's Office is 65 applications for review as of 31 December 2017.

Cumulative Total Applications As Of 31 December 2017	TOTAL
Cases closed in prior years	13
Prior year cases carried over and closed in 2017	10
Cases received and closed in 2017	6
Prior year cases carried over and still open as of 31 December 2017	20
Cases received in 2017 and still open as of 31 December 2017	19
Cumulative Total Applications (as of 31 December 2017)	65

DECISIONS TAKEN TO THE JUDICIAL REVIEW

None of the Information Commissioner's 2017 decisions have been taken to judicial review as of 31 December 2017.

WHAT WE DO

Enforcing The Right: Compliance Oversight

(1 APRIL 2017 – 31 MARCH 2018)

The Information Commissioner's mandate includes ensuring public authorities comply with additional requirements of the PATI Act. These include the obligation on public authorities to proactively publish and make available a variety of helpful information, as described under "Proactive Publication" on page 13. Public authorities are also required to designate an Information Officer responsible for receiving a PATI request and to report their statistics annually to the Information Commissioner on the number of PATI requests they have received and their outcomes.

Further, the Minister responsible for Government Reform has additional responsibilities under the PATI Act, including the obligation to:

- Publish an annual list of the salary scales for public officers
- Issue regulations concerning any fees for copies of records, amending the Schedule to the PATI Act identifying the public authorities and heads of the authorities, the management and maintenance of public records and for the administrative of the PATI Act
- Consult with the Information Commissioner and then publish a Code of Practice for public authorities for the administration of the PATI Act
- Consult with the Information Commissioner and Director of the Library and Archives and then publish codes of practice for public authorities on records maintenance and management

The Information Commissioner's uses several tools to monitor compliance with these various obligations. Our website lists public authorities, their Information Officers and provides links to Information Statements. We update this information when we receive revised Information Statements or notices of changes to Information Officers.

The Government of Bermuda departments, and some quangos, undergo organisational change as a regular aspect growth and are required to provide the Information Commissioner with updated Information Statements and any changes to their Information Officers. To the best of our ability, the Information Commissioner's Office website includes the up-to-date government structure, and provides links to the prior Government of Bermuda organisational charts to assist the public in locating historical records.

The Information Commissioner's Annual Reports provide the public with the summary data from the public authorities' year-end reports on the number of PATI request the authorities received and their outcomes.

As the Information Commissioner's Office continues to grow, we have identified a future need to address more systematically the Information Commissioner's oversight of the additional obligations under the Act, such as the proactive publication of the details of any contracts over \$50,000.



2017 PUBLIC AUTHORITIES' STATISTICS

(1 JANUARY 2017 – 31 DECEMBER 2017)

Section 58(3) of the PATI Act requires public authorities to report their annual PATI statistics to the Information Commissioner for publication.

2017 Public Authorities' Statistics	Number	Percentage of Total Number
Number of public authorities that received requests	44	21.7%
Number of public authorities that did not receive any requests	123	60.6%
Number of public authorities with no statistical information provided	36	17.7%
Total number of public authorities		100%

2017 PUBLIC AUTHORITIES' STATISTICS

(1 JANUARY 2017 – 31 DECEMBER 2017)

Total PATI Requests	2015	2016	2017
Reported new requests	124	144	136
Reported requests carried over from prior year	N/A	24	9
Total requests in processing for year	124	168	145

The total number of new reported PATI requests was 136 for 2017. The public authorities with the highest number of new 2017 requests reported to the ICO were the Bermuda Police Services (37) and Ministry of Health Headquarters (14).

The Government of Bermuda Ministry with the highest number of reported requests (excluding Bermuda Police Services) was the Ministry of Health, with 17 requests received by its departments.

Individuals made 136 new PATI requests for access to records under Section 13 of the PATI Act. Another 9 PATI requests for records were reported as pending at the end of 2016.

PATI Requests Made (s.13)	2015	2016	2017
Total number	123	142	136

The reported outcomes of these requests are listed in the table below.

Initial Disposition Of PATI Requests (as at year end)	2015	2016	2017
Pending	23	9	6
Access granted in whole	45	64	50
Access granted in part	17	27	14
Access refused in whole	30	54	50
Unknown	8	11	20

2017 PUBLIC AUTHORITIES' STATISTICS

(1 JANUARY 2017 – 31 DECEMBER 2017)

In 2017, public authorities reported receiving no new requests under Section 19 of the PATI Act to amend a record of personal information.

Requests To Amend Record Of Personal Information In Record (s. 19)	2015	2016	2017
Total number	1	2	0

The outcome of the requests to amend a record of personal information are outlined in the table below:

Disposition Of Requests To Amend Personal Information In Record	2015	2016	2017
Pending	1	0	0
Request granted	0	1	0
Request denied	0	2	0

2017 PUBLIC AUTHORITIES' STATISTICS

(1 JANUARY 2017 – 31 DECEMBER 2017)

Public authorities are also required to report on the number of times they invoke exemptions to deny access to records in the initial response to the PATI request for access to records. Their reports also include the number of administrative denials they issued. In 2017, these reports indicated a decrease in the number of administrative denials issued.

Reasons For Refusal In Initial Decision	2015	2016	2017
Administrative refusal because record does not exist or cannot be found - section 16(1)(a)	18	32	19
Administrative refusal because insufficient information in request - section 16(1)(b)	3	1	7
Administrative refusal because request would cause substantial and unreasonable interference or disruption - section 16(1)(c)	0	6	4
Administrative refusal because publication of information is required by law within 3 months - section 16(1)(d)	2	1	0
Administrative refusal because information is already in public domain - section 16(1)(f)	5	3	4
Administrative refusal because fee payable under section 20 not paid - section 16(1)(g)	0	1	0
Health or safety - section 22	2	0	0
Personal information - section 23	7	11	13
Commercial information - section 25	2	12	7
Information given in confidence - section 26	6	12	3
Cabinet document - section 27	0	1	1
Ministerial responsibility - section 28	0	4	0
Deliberations of public authorities - section 29	2	6	4
Operations of public authorities - section 30	4	10	0
National security, defence and international relations - section 32	0	2	1
Governor's responsibilities - section 33	0	0	1
Law enforcement - section 34	5	3	5
Legal professional privilege - section 35	2	2	2
Disclosure prohibited by other legislation - section 37	2	3	10
Non-disclosure of existence of a record - section 38	1	2	0
Failure to decide	0	2	0

2017 PUBLIC AUTHORITIES' STATISTICS

(1 JANUARY 2017 – 31 DECEMBER 2017)

Public authorities reported that individuals sought internal reviews 12 times in 2017. The decisions in the internal reviews varied, as shown below.

Dispositions Of Internal Reviews	2015	2016	2017
Pending	2	3	3
Grant access in whole	2	2	0
Grant access in part	0	4	1
Refuse in whole*	9	18	8
Procedural issues**	0	2	0
Referred to Commissioner	0	3	11
Total reported internal review decisions	13	32	23

*Failure to issue a timely internal review decision deemed a refusal in whole.

**Includes issues such as failure to comply with timeframes.

2017 PUBLIC AUTHORITIES' STATISTICS

(1 JANUARY 2017 - 31 DECEMBER 2017)

The internal review decisions that denied access to records also relied more heavily in 2017 on exemption grounds:

Reason For Refusal in Internal Review Decision	2015	2016	2017
Administrative refusal because record does not exist or cannot be found - section 16(1)(a)	1	4	2
Administrative refusal because request would cause substantial and unreasonable interference or disruption - section 16(1)(c)	0	5	0
Administrative refusal because publication of information is required by law within 3 months - section 16(1)(d)	0	1	0
Vexatious request – section 16(1)(e)	0	0	1
Administrative refusal because information is already in public domain - section 16(1)(f)	1	0	0
Personal information - section 23	2	3	4
Commercial information - section 25	1	2	5
Information given in confidence - section 26	1	6	3
Cabinet document - section 27	1	0	0
Deliberations of public authorities - section 29	0	2	2
Operations of public authorities - section 30	2	3	2
National security, defence and international relations - section 32	0	0	1
Governor's responsibilities - section 33	0	0	1
Law enforcement - section 34	0	0	1
Disclosure prohibited by other legislation - section 37	0	2	0
Failed to issue decision	0	6	1
Request for internal review out of time	0	1	0



DEVELOPING INFORMATION RIGHTS

The Information Commissioner's Office promotes the development of information rights in Bermuda that are consistent with best practices and trends in the international community.

ANONYMOUS REQUESTS AND UNIVERSAL ACCESS

For the third year, the Information Commissioner calls upon the Government to address the PATI Act's most significant shortcoming: the failure to provide universal access to public records, which leads to the inability to allow for anonymous PATI requests. As the Information Commissioner stated in prior Annual Reports, the PATI Act grants a right to access public records to Bermudians and residents of Bermuda. In practice, this means that public authorities need to know a requester's identity to verify their eligibility to submit a PATI request. This prohibits requesters from filing anonymous requests.

Three years after the enactment of the PATI Act, the Information Commissioner's Office continues to receive reports concerning breaches of a requester's confidentiality. We also routinely have members of the public express concern about retaliation or other negative consequences if they file a PATI request. Taking steps to directly question a public authority, rather than maintaining respectful deference, may also be a challenging cultural shift whose impact may be lessened by the ability to submit a PATI request anonymously.

The PATI Act will be required to undergo harmonising amendments in anticipation of the Personal Information Protection Act (PIPA) 2016 implementation.

DEVELOPING INFORMATION RIGHTS

“Accountability isn’t always about getting it right every single time; it’s about seeking input to identify improvements to public spending and services as public authorities move forward.”

GITANJALI S. GUTIERREZ
Information Commissioner

THE INFORMATION COMMISSIONER

urges the Government to use this opportunity to strengthen the Bermuda public’s right to access information by allowing for the filing of anonymous PATI requests.

These steps would allow Bermudians and residents to safely and confidently seek information about a range of local public services, including education, health, safety, crime, planning decisions, job development, and more.

TRANSPARENCY AND OUTSOURCING

In October 2017, the Information Commissioner called for greater scrutiny of the outsourcing of public services. This call followed the 10th International Conference of Information Commissioners, where Information Commissioners from around the world adopted a resolution seeking more robust transparency surrounding public services outsourced to private sector entities.

Bermuda is not alone in tackling concerns about accountability and public spending with the outsourcing of public services. It is

crucial that outsourcing arrangements, especially for significant services, involve open contracting standards and a transparent procurement. In Bermuda, these processes are promoted by the Office of Project Management and Procurement, and include the publication of opportunities and clearly identified selection criteria. The proactive publication requirements under the PATI Act are also an important step in this direction. The proactive publication of the details of contracts over \$50,000 enables the public to know what bidder was successful and to ask for further access to records concerning service delivery and contract management.

‘OPEN CONTRACTING’

and ‘public accountability’ are more than words. They refer to specific steps in public spending that all public authorities should strive to achieve.

Access to information is one of the keys to accountability of outsourced services. Public accountability for public authorities and outsourced contractors and consultants creates an opportunity for feedback that can lead to improvements in public services.



STRENGTHENING THE ORGANISATION

THE GOVERNANCE FRAMEWORK FOR THE INFORMATION COMMISSIONER AND HER OFFICE

Countries have many choices when creating a new oversight body for access to information laws. As reflected in the 2005 Green Paper, Public Access to Information (PATI), The Bermuda Government thoughtfully and deliberately adopted best practices under international law to establish the Information Commissioner under the PATI Act as a fully independent oversight body. An independent governance structure—with respect to decisionmaking and resources—ensures that an Information Commissioner can fulfill her mandate as a supervisory body without direct or indirect political influence or control.

The purposes of the PATI Act focus upon furthering the accountability of public authorities and deepening the engagement of the Bermuda public. These purposes are set forth in section 2 of the Act, as described on page 10 of this Annual Report.

Part 7 of the PATI Act establishes the Office of the Information Commissioner as a public office. Section 50(4) of the Act establishes the independence crucial for the Information Commissioner's ability to satisfy her mandate under the PATI Act: "In the exercise of his functions, the Commissioner shall not be subject to the direction or control of any other person or authority".

As Bermuda's first Information Commissioner and inaugural Information Commissioner's Office, we have steadfastly maintained this statutory independence of the Information Commissioner. With each step in the establishment of our Office, we have revisited the Information Commissioner's independence with the Government and clarified the necessary governance arrangements to ensure the integrity of the institution of the Information Commissioner. This has included amendments adding the Information Commissioner to the Schedule to the Public Service (Delegation of Powers)

Top left: Sean Murray, Director of Research and Quality Assurance at the Office of the Information & Privacy Commissioner in Newfoundland and Labrador and Information Commissioner Gitanjali S. Gutierrez

Top right: Jan Liebaers, Deputy Ombudsman for Information Rights for Cayman Islands; Gitanjali S. Gutierrez, Information Commissioner for Bermuda, and Iain McDonald, Isle of Man Information Commissioner

Regulations 2001 and an acceptance of processes to ensure appropriate financial oversight and accountability without political interference. These developments formalized the PATI Act's intended independent functioning of the Information Commissioner.

The right to access public information grew out of Bermuda's larger movement towards creating and strengthening new institutions to further good governance in the late 1990s. The offices that Bermuda later established as a result included the Ombudsman, Office of Project Management and Procurement, Sustainable Development, and the Information Commissioner. The Information Commissioner now stands as a non-Constitutional, public office with an established independent governance framework, safeguarded from political influence. This work has taken time. But the Bermuda public will now benefit for decades to come from a right to access public information that is safeguarded and enforced by an independent and strong Information Commissioner institution, as envisioned by the PATI Act.

We also note that, while independent, the Information Commissioner also remains fully accountable to the public. The statutory decisions of the Information Commissioner are subject to judicial review by the Supreme Court. The Auditor General conducts an independent audit of the Information Commissioner Office's accounts on an annual basis. Finally, the Information Commissioner reports directly to the public through the tabling of her Annual Reports.

As anticipated in the 2016 Annual Report, the Information Commissioner's Office also completed its migration onto our managed IT services in October 2017. In particular, this means that the Information Commissioner's Office manages our investigation records ourselves and we do not place them within the Government of Bermuda's IT systems. The Information Commissioner's Office is an oversight body handling records from public authorities within and outside of the Government of Bermuda. This year we achieved a critical goal of securing an independent IT infrastructure to support our work. Our new IT infrastructure allows us to give all public authorities the strongest assurances possible with respect to the security of the withheld records we receive during our investigations. We extend a special thank you to the Government of Bermuda Information and Digital Technologies for their assistance during our migration.

TRAINING AND DEVELOPMENT

The Information Commissioner's Office continues to focus on the development of our staff. We are proud to share that our staff attended training for the PDP Practitioner Certificate in Freedom of Information in London in December 2016 and sat for

the examination in June 2017, receiving their certification in August 2017.

This year, the Information Commissioner's Office once again benefited from our international partners. Beginning in November 2017, Mr. Sean Murray, the Director of Research and Quality Assurance at the Office of the Information and Privacy Commissioner for Newfoundland and Labrador worked with the Information Commissioner and our Investigation Officers. Mr. Murray has over a decade of experience with the Newfoundland office engaged in senior investigation and legislative policy work. Mr. Murray provided strategic advice, assisted with several of the Information Commissioner's consultation comments and provided training and support for our Investigation Officers.

We also gave back to the international community of Information Commissioners following the International Conference of Information Commissioners. Both the Information Commissioner and Investigation Officer Answer Styannes attended the 10th International Conference of Information Commissioners in Manchester, England in September 2017. Although no association or secretariat of Information Commissioners exists, every two years national Information Commissioners from around the world gather for public meetings and a closed conference. The conference generally involves Commissioners from 60 to 80 countries. Information Commissioner Gutierrez collaborated with former Scottish Information Commissioner Rosemary Agnew to conduct a roundtable workshop for new Information Commissioners following the conference. Together with Commissioners from Canada and Albania, they presented an overview of the various challenges, opportunities, lessons learned and international resources available for jurisdictions with new access to information laws and for new Information Commissioner's appointed to existing offices. Twenty Information Commissioners from Asia, the Caribbean, Europe and South America attended.

FINANCES

The Information Commissioner's Office proactively publishes much detail about our financial decisions and public expenditures. For information about our budget, salary scales, contracts and audited financial statements, please visit www.ico.bm. If you would like additional information, just ask! You may email the ICO at info@ico.bm.



If you would like more information,
you may email the ICO at info@ico.bm.



LOOKING AHEAD

Public access to information keeps public authorities operating at their highest level of accountability. It ensures that with each decision, each expenditure and each program, the public is always present. The right to access information is an opportunity for those who are governed to hold accountable those who govern on a daily basis.

When the public seeks to access public records, a public authority knows the PATI process will result in one of two outcomes. Either the public authority must provide that information to the requester, or the public authority must potentially justify to the Information Commissioner that it properly withheld the information under the provisions of the PATI Act. The PATI Act means that Bermuda's public authorities answer directly to the Bermuda public, without exception.

Recognition is growing throughout Bermuda's public authorities that the landscape has changed, and that this change is here to stay. Without question, the Information Commissioner's Office has encountered resistance from public authorities, the testing of boundaries by public authorities and the public and a need for improvement in the building blocks for access to information, such as proper records management, PATI training and related support.

More importantly, we have seen public authorities who embrace transparency as a chance to share openly their accomplishments, challenges, expertise and willingness to improve. These public authorities welcome accountability for what it aspires to be: an opportunity to engage more fully with an informed public. This new relationship can only lead to improvements in government services, programs, spending decisions and governance.

As Information Commissioner, I will ensure that my Office continues to strengthen compliance and enforcement of the right to access public information. The ICO will also celebrate the public authorities and individuals who are leading the cultural change in public life. As our law and practices mature, the right to access public information has become an indispensable pillar for democratic accountability.

GITANJALI S. GUTIERREZ

Information Commissioner

Photo Credit:
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