

Decision Notice

Decision 02/2021: Cabinet Office

Savvy Entertainment Ltd. records: failure to decide within statutory timeframe

Reference no: 20210127

Decision date: 23 February 2021

Summary

On 25 September 2020, the Applicant asked the Cabinet Office for records relating to Savvy Entertainment, Ltd. This Decision finds that the Cabinet Office failed to decide the Applicant's request for an internal review within the statutory timeframe set forth by the Public Access to Information Act 2010.

The Information Commissioner has ordered the Cabinet Office to comply with the requirement to issue a decision on the request for an internal review on or before Tuesday, 23 March 2021.

Background

1. This Information Commissioner's Decision is made in the context of a 'failure to decide' case involving an application for review under Part 6 of the Public Access to Information (**PATI**) Act 2010 that was received by the Information Commissioner's Office on 27 January 2021.
2. This Decision does not address whether a public authority has properly denied access to a record. Rather, it addresses the basic obligation upon a public authority to respond to a requester within the statutory timeframes.
3. Relevant dates include the following:

Date	Action
25 September 2020	The Applicant made a written PATI request to the Cabinet Office.
	The Applicant did not receive an initial decision within six weeks of the Cabinet Office's receipt of the PATI request, i.e., by 6 November 2020.
3 December 2020	The Applicant requested an internal review be conducted by the head of the public authority.

	The Applicant did not receive an internal review decision within six weeks of the Cabinet Office's receipt of the request for one, i.e. by 14 January 2021.
27 January 2021	The Applicant requested an independent review by the Information Commissioner.
29 January 2021	The Cabinet Office was notified in writing that an application had been received from the Applicant. The Cabinet Office was asked to comment on the application.
	The Cabinet Office did not provide any submissions to the Information Commissioner for consideration in this review.

Information Commissioner's analysis and findings

Internal Review Decision

1. Section 43(1) of the PATI Act requires the head of a public authority to conduct an internal review. Section 43(2) gives the head of the public authority a maximum of six weeks, after the date of receiving a request for an internal review, to complete the internal review. Section 43(2) also requires that the head of the authority notify the applicant of: the internal review decision, the reasons for the decision, and the applicant's right to seek an independent review by the Information Commissioner.
2. On 3 December 2020, the Applicant sent the Cabinet Office an email requesting an internal review. The Applicant did not receive an internal review decision by 14 January 2021.
3. On 27 January 2021, the Applicant requested an independent review by the Information Commissioner of the Cabinet Office's alleged failure to issue an internal review decision.
4. By a letter dated 29 January 2021, the Cabinet Office was invited by the Information Commissioner's Office to make submissions on this application, as required by section 47(4) of the PATI Act. Although a reasonable opportunity to make representations was provided, as required by section 47(4) of the PATI Act, no submissions were received explaining why an internal review decision was not issued by the Cabinet Office within the statutory timeframe.

5. It is a matter of fact that the Cabinet Office did not provide the Applicant with an internal review decision within the statutory timeframe. The Information Commissioner is satisfied that the Cabinet Office failed to comply with section 43(2) of the PATI Act.
6. The Information Commissioner recommends that the Cabinet Office consider whether it is appropriate to apologise to the Applicant for its failure to comply with the statutory timescale for responding to the request for an internal review.

Decision

The Information Commissioner finds that the Cabinet Office failed to comply with Part 5 of the Public Access to Information (**PATI**) Act 2010 in responding to a request for an internal review made by the Applicant. In particular, the Cabinet Office failed to issue a decision on the Applicant's request for an internal review within the timeframe set forth in section 43(2) of the PATI Act.

As set forth in the accompanying Order, the Information Commissioner orders the Cabinet Office to provide a decision on the request for an internal review to the Applicant in accordance with section 43 of the PATI Act, with a copy to the Information Commissioner's Office, **on or before Tuesday, 23 March 2021**.

Judicial Review

Should the Applicant, the Cabinet Office, or any aggrieved party wish to seek judicial review according to section 49 of the PATI Act against this Decision, they have the right to apply to the Supreme Court for review of this Decision. Any such appeal 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 Cabinet Office 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.



Gitanjali S. Gutierrez
Information Commissioner
23 February 2021

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