

Decision Notice

Decision 22/2021: Office of the Governor

Records on public appointments by Governor: failure to decide within statutory timeframe

Reference no: 20211214-02

Decision date: 31 December 2021

Summary

On 1 September 2021, the Applicant asked the Office of the Governor (**Government House**) for records on public appointments made by the Governor under the Constitution. The Information Commissioner has found that Government House 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.

During this review, Government House issued an internal review decision. Consequently, the Information Commissioner does not require Government House to take any further action in respect of this Decision.

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 (**ICO**) on 14 December 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 timeframe.
3. Relevant dates include the following:

Date	Action
1 September 2021	The Applicant made a written PATI request to Government House
	The Applicant did not receive an initial decision within six weeks of Government House's receipt of the PATI request, i.e., by 13 October 2021.
29 October 2021	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 Government House's receipt of the request for one, i.e. by 10 December 2021.
14 December 2021	The Applicant requested an independent review by the Information Commissioner.
22 December 2021	The ICO notified Government House in writing that an application had been received from the Applicant. Government House was asked to comment on the application. Government House issued an internal review decision to the Applicant.
23 December 2021	Government House issued an amended internal review decision to the Applicant.

Information Commissioner's analysis and findings

Internal Review Decision

4. 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.
5. On 29 October 2021, the Applicant sent Government House an email requesting an internal review. The Applicant did not receive an internal review decision by 10 December 2021.
6. On 14 December 2021, the Applicant requested an independent review by the Information Commissioner of Government House's alleged failure to issue an internal review decision.
7. By a letter dated 22 December 2021, Government House was invited by the ICO to make submissions on this application, as required by section 47(4) of the PATI Act. Although a reasonable opportunity to make representations to the Information Commissioner was provided, no written submissions were received explaining why an internal review decision was not issued by Government House within the statutory timeframe.

8. It is a matter of fact that Government House did not provide the Applicant with an internal review decision within the statutory timeframe. The Information Commissioner is satisfied that Government House failed to comply with section 43(2) of the PATI Act.
9. Shortly after receiving the ICO's notice of this review, Government House provided the Applicant with an internal review decision on 22 December 2021, which was then slightly amended on the next day. Government House's Head of Authority also acknowledged to the Applicant its delay in issuing an internal review decision.
10. The Information Commissioner does not require Government House to take any further action at this time in relation to the Applicant's request for an internal review. The Information Commissioner expresses appreciation to Government House for its cooperation and efforts to bring itself into compliance with the PATI Act.

Decision

The Information Commissioner finds that the Office of the Governor (**Government House**) 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 Public Access to Information Act 2010. During this review, Government House issued an internal review decision. Consequently, the Information Commissioner does not require Government House to take any further action in respect of this Decision.

Judicial Review

Should the Applicant, Government House, 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.



Gitanjali S. Gutierrez
Information Commissioner
31 December 2021

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