

FROM **TRANSPARENCY** TO **ACCOUNTABILITY**



10 YEARS *of* PATI

ANNUAL
REPORT
2 0 2 4



2024 HIGHLIGHTS

“This past year was marked by growth and a significantly shifting landscape for both the ICO and the PATI Act. Some of the changes have been very positive; the ICO’s increasing focus on more efficient processes and successful succession planning for its leadership, for example. Other changes brought new, unexpected challenges to safeguarding the right to public access in Bermuda, including amendments to the PATI Act and other legislation that risk creating unnecessary barriers to the public’s right to know.”

*Information Commissioner’s
Welcome* **P. 2**



NEW

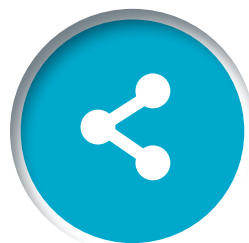
**‘Changes to PATI’
webpage launched**

P. 10



200% increase in
Information Commissioner’s
reviews closed by resolution

P. 20



89,092

reach for social
media campaigns

P. 9



ISSUED

**Information Commissioner’s
Statement on PATI
Amendment Act**

P. 36





87% of respondents stated the right to access public records was important to them (compared to 86% of respondents in 2023)

P. 12



54% of Information Commissioner's decisions in 2024 ordered action by the public authority

P. 28



50 new applications received for an Information Commissioner's review (compared to 54 in 2023)

P. 17



177 new PATI requests made in 2024 (compared to 189 in 2023)

P. 32



61 applications closed (compared to 66 in 2023)

P. 19



87% increase in refusal because requested records did not exist

P. 33 & 35




40,000+ views of ICO's website

P. 10



39% of public authorities' initial responses in 2024 to a PATI request granted access in part or in full

P. 32



“Ten years after PATI rights went into effect, the legislation has been resilient—and has grown in strength to challenge the legacies of secrecy. Bermudians and residents’ use of their PATI rights is encouraging a seismic shift in the relationship between those that govern and those that are governed. But the cultural change, this shift in mindset and practice, has not been equal.”

*Information Commissioner’s
Reflections* **P. 41**



CONTENTS

2	WELCOME
4	WHO WE ARE
8	WHAT WE DO: STRENGTHENING THE RIGHT
16	WHAT WE DO: ENFORCING THE RIGHT
31	2024 PATI REQUEST REPORTS
36	IMPROVING ACCESS TO INFORMATION
39	STRENGTHENING THE ORGANISATION
41	REFLECTIONS

Transmittal

Laid before each House of the Legislature in March 2025, as required by section 58(1) of the Public Access to Information Act 2010.

WELCOME



GITANJALI S. GUTIERREZ
INFORMATION COMMISSIONER

March 2015 - February 2025

I am pleased to welcome you to the 2024 Annual Report of the Information Commissioner, and my final submission to Parliament as my second term comes to its conclusion.

This year's Annual Report offers an overview of the operations of the Public Access to Information Act during the 2024 calendar year to fulfill the statutory reporting requirement in section 58(1) of the PATI Act. It also highlights the work of the Information Commissioner's Office from the beginning of this fiscal year through the conclusion of my appointment, from April 2024 to February 2025.

This past year was marked by growth and a significantly shifting landscape for both the ICO and the PATI Act. Some of the changes have been very positive; the ICO's increasing focus on more efficient processes and successful succession planning for its leadership, for example. Other changes brought new, unexpected challenges to safeguarding the right to public access in Bermuda, including amendments to the PATI Act and other legislation that risk creating unnecessary barriers to the public's right to know. Throughout this movement, **the ICO has remained a small and highly nimble institution, well-poised to carry out its mandate into the second decade of the PATI Act.**

Particularly over the last five years, the formal decisions issued from the ICO have educated public authorities on how to apply the PATI Act and have informed the public on the scope of their PATI rights. This body of decisions has become an important reference for all stakeholders. The ICO's authority and the bounds of the PATI Act are now firmly entrenched. As a result, the ICO launched an intentional effort in 2024 to expand its regulatory approach, including its efforts to resolve disputes that could be addressed through informal means. Through more robust resolution facilitated by the ICO, requesters' information needs have been met more efficiently while avoiding the more time-consuming and resource-heavy process involved in issuing a formal decision by the Information Commissioner. Through the ICO's evolving approach to our oversight role and the handling of applications for an independent Information Commissioner review, **we saw a 200% increase in applications that were informally resolved to the parties' satisfaction.**

In anticipation of my appointment as Information Commissioner concluding and other staffing transitions, the ICO began a succession planning initiative that successfully promoted to leadership roles Bermudian public officers. The ICO was pleased to welcome Ms. LaKai Dill's promotion to Deputy

Information Commissioner and Ms. Caitlin Conyers' appointment as Senior Investigation Officer. Ms. Dill's appointment as the ICO's most senior public officer also laid the foundation for leadership continuity to support the ICO during the forthcoming appointment of the next Information Commissioner.

At the same time, the ICO faced unprecedented challenges. Extensive new amendments to the PATI Act were passed, but without public consultation that is crucial for meaningful engagement. **Our annual public awareness survey this year confirmed that 76% of the respondents believed that it was important for the Government to engage in public consultation when considering changes to the PATI Act.** In the absence of public input, the impact of the amendments is mixed. Some amendments arising from consultation with the ICO will strengthen this Office, provide important clarifications, and improve the efficiency of the PATI process. Yet, the introduction of last-minute amendments creating 'appropriate limits' and implementing fees threatens the rights of Bermudians and residents to access public information and promote accountability for public decision-makers.

Organisationally, the ICO has, in past years, managed to support the Information Commissioner's mandate despite a lack of adequate funding. For some years, this was accomplished through maintaining vacant posts; in other years, the ICO benefitted from a legal cost award that supplemented the funds allocated by the Legislature in the consolidated fund for the ICO's budget. This year, however, the ICO found itself returning to low staffing levels and a lack of sufficient funding to maintain its current infrastructure, despite requests to the Government to maintain the Office's current infrastructure. As a result, the incoming Information Commissioner will face difficult decisions on what adjustments are needed, in essence to downsize the ICO.

Despite these challenges, the ICO has continued to be a value-adding institution. In response to the numerous amendments to the PATI Act, the ICO created a new webpage that explains each set of amendments, including the harmonising amendments to the PATI Act as the Personal Information Protection Act 2016 went into effect as well as the standalone amendments to the PATI Act and Regulations. The ICO also continued to hold Quarterly Briefings for public authorities to increase their officers' skills and capacity to respond to PATI requests. In 2024, the ICO provided more transparency around its work to enforce compliance with the Information Commissioner's orders by informing applicants in reviews when the ICO was required to issue letters before action to compel compliance. Through these efforts, the ICO has encouraged the public's expectation of transparent and accountable public bodies, while seeking to support the capabilities of public authorities to fulfill the promise of the PATI Act.

I offer my final thanks to the extraordinary team of public officers at the ICO. Their dedicated service, wealth of knowledge and high standards have established the ICO's strong reputation and earned the trust of both the public and public authorities. It has been a privilege to serve together as their colleague.



WHO WE ARE

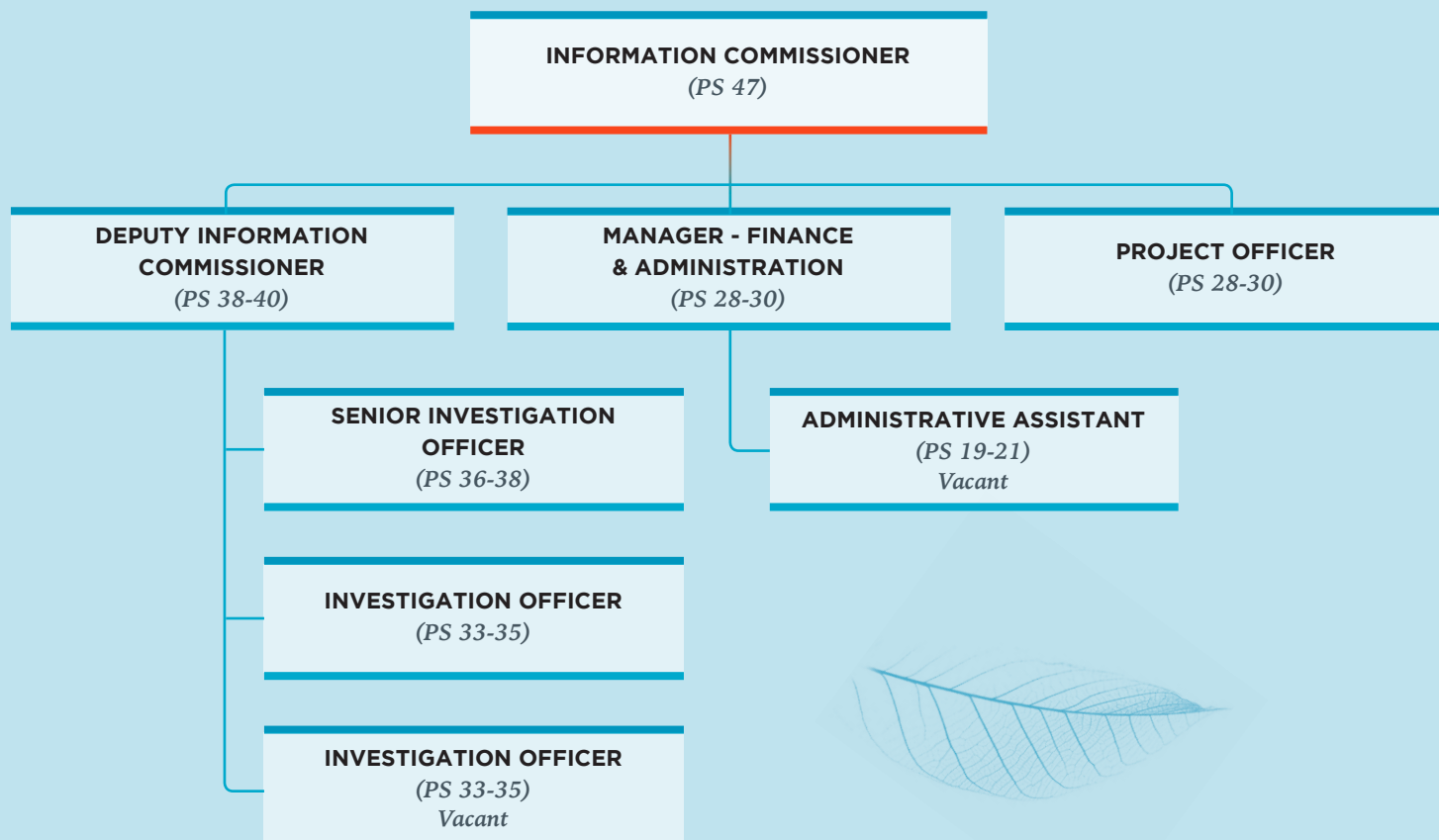
INFORMATION COMMISSIONER'S MANDATE

The Information Commissioner promotes public access to information and oversees compliance with the Public Access to Information Act 2010 (PATI Act). The Information Commissioner's powers and duties, outlined in parts 2, 6 and 7 of the PATI Act, are to:

- **Raise public awareness about PATI rights and how to use them,**
- **Provide guidance to public authorities about their responsibilities under the PATI Act,**
- **Reinforce public authorities' compliance with the PATI Act, and**
- **Review public authorities' actions under the PATI Act and issue legally binding decisions, when necessary.**

In carrying out this mandate, the Information Commissioner is guided by principles of independence, integrity and fairness.

INFORMATION COMMISSIONER'S OFFICE



ICO TEAM



PICTURED L-R

ANSWER STYANNES SENIOR INVESTIGATION OFFICER (until September 2024)

CAITLIN CONYERS SENIOR INVESTIGATION OFFICER (appointed October 2024)

LAKAI DILL DEPUTY INFORMATION COMMISSIONER | **SHEENA BASSETT** PROJECT OFFICER

SONIA ASTWOOD RELIEF ADMINISTRATIVE ASSISTANT | **GITANJALI GUTIERREZ** INFORMATION COMMISSIONER

TIKITTA SUHARTONO MANAGER - FINANCE AND ADMINISTRATION | **KENTISHA TWEED** INVESTIGATION OFFICER

STAFFING CHANGE



In September 2024, the ICO bid farewell to its longest serving investigator, Senior Investigation Officer Answer Styannes. Ms. Styannes joined the ICO in 2016 as the first Investigation Officer and later served as Acting Deputy Information Commissioner for a year before being promoted as the first Senior Investigation Officer. Ms. Styannes made invaluable contributions to the ICO, from drafting effective guidances and internal policies and procedures, assisting PATI requesters, and working one-on-one with public authorities to understand how to comply with the PATI Act. Ms. Styannes also mentored each new Investigation Officer that joined the ICO. Her professionalism, compassion, expertise and humour were appreciated by those she worked with.

On behalf of the ICO, public authorities and the public, we thank Ms. Styannes for her dedicated work to enshrining public access to information rights in Bermuda.

In May 2024, the ICO also bid farewell to Investigation Officer Ian Cameron. Since October 2022, Mr. Cameron had served the public and public authorities during a critical time of growth and transition at the ICO in a temporary post. Mr. Cameron was appreciated for a resolution-focused and approachable demeanour, which complemented the ICO's efforts to close information gaps during the Commissioner's reviews.

ICO 2024 TIMELINE

APRIL 2024

- Issued 200th Information Commissioner's decision
- Resumed PATI amendment consultation with Cabinet Office's PATI/PIPA Unit
- Information Commissioner began attending PrivCom's *Road to PIPA* training sessions
- ICO officers joined in *Mediating public sector disputes in 2024* virtual seminar

MAY 2024

- ICO team joined Public Service's wellness walk for 115th anniversary of Bermuda Derby
- Information Commissioner attended ICIC Executive Committee 4th virtual meeting
- ICO officers attended training on personal information protection (PIPA); and then-Acting Deputy completed *Development planning for managers* training
- Temporary Additional Investigation Officer Ian Cameron bid farewell to ICO

JUNE 2024

- Information Commissioner and Acting Deputy attended ICIC 15th annual conference in Albania
- Project Officer attended *Professional joy* training; and Acting Deputy completed *People management skills* and sat *Freedom of information* practitioner certificate exam

JULY 2024

- Held Information Commissioner's Quarterly Briefing for public authorities, in person, on *Cabinet documents exemptions* and *Steps to effective PATI decision writing*
- ICO's Audited Financial Statement for financial year ended 31 March 2022 tabled before each House of the Legislature
- Acting Deputy completed *Learning to manage* training

AUGUST 2024

- Closed 300th application for Information Commissioner's review
- Acting Deputy obtained *Freedom of information* practitioner certificate
- Information Commissioner attended ICIC Executive Committee 5th virtual meeting

SEPTEMBER 2024

- Issued first interim order during Information Commissioner's review
- Information Commissioner issued Right to Know Day video, *From transparency to accountability*, and guested on *Second Look*, *Miss Thang Show*, and *The Daily Hour*
- Hosted information booth on International Right to Know Day at Nelly's Walk
- Longest serving staff member Senior Investigation Officer Answer Styannes bid farewell to ICO

OCTOBER 2024

- LaKai Dill appointed as Deputy Information Commissioner and Caitlin Conyers as Senior Investigation Officer
- Deputy and Senior Investigation Officer completed *Coaching skills for managers*, *PIPA overview*, and *E1 approver* trainings





APRIL 2024 – FEBRUARY 2025

NOVEMBER 2024

- Issued 90th 'failure to decide' Information Commissioner's decision
- PATI Amendment Bill 2024 tabled and debated in House of Assembly
- Held Information Commissioner's Quarterly Briefing for public authorities, in person, on *Responding to PATI requests after PIPA: what public authorities need to know*
- ICO officers attended virtual conference for Canada's access to information investigators
- Senior Investigation Officer completed *People management skills* and *Emotional intelligence* courses; and Deputy completed *Mastering performance conversations* training

DECEMBER 2024

- Received 350th application for Information Commissioner's review
- PATI Amendment Act 2024 passed by Parliament
- Distributed 2024 ICO Annual Return package, inviting public authorities' annual updates about their PATI work
- Published new ICO Guidance, *Personal information requests: which Act applies – PATI or PIPA?* (section 12A), with flowchart
- Information Commissioner attended ICIC Executive Committee 6th virtual meeting as well as ICIC ATI Principles Working Group 1st virtual meeting

JANUARY 2025

- PATI/PIPA harmonising amendments took effect
- Launched *Changes to PATI* webpage on ico.bm
- Senior Investigation Officer completed *4 essential roles of leadership* and *Code of Practice for Project Management & Procurement* trainings
- Delivered donated goods to Eliza DoLittle Society and Women's Resource Centre

FEBRUARY 2025

- Held Information Commissioner's Quarterly Briefing for public authorities, in person, on bridging information gaps with PATI requesters, presented by Investigation Officers
- Senior Investigation Officer obtained *Freedom of information* practitioner certificate; and Investigation Officers completed *Policy to law* training
- Gitanjali Gutierrez completed appointment as Bermuda's first Information Commissioner
- Jason Outerbridge appointed as Information Commissioner for Bermuda with effect on 1 March 2025



Information Commissioner Gitanjali Gutierrez and Deputy Information Commissioner LaKai Dill with Besnik Dervishi, Information and Data Protection Commissioner for Albania, host for the ICIC 15th annual conference in Albania

WHAT WE DO

STRENGTHENING THE RIGHT

APRIL 2024 – FEBRUARY 2025

RAISING PUBLIC AWARENESS

The Information Commissioner has a statutory duty to raise awareness of the right to access public records. The ICO has achieved this duty through general public education initiatives, social media outreach, its website as well as in-person, phone and email enquiries. Members of the public are always welcome to get in touch if they wish to speak to an ICO staff member about their PATI rights.

The ICO continued to engage in one-on-one interactions with members of the public and public authorities who had specific and general questions about the PATI Act and PATI rights. The office received emails and calls from individuals across the community, wanting to understand how to use their PATI rights effectively or wanting to know how to navigate the PATI process with public authorities. Though the ICO must maintain a neutral position when offering assistance on specific PATI request enquiries, the ICO has printed, published and distributed a range of resources for the public to access. The ICO also received enquiries from public authorities that were processing PATI requests.

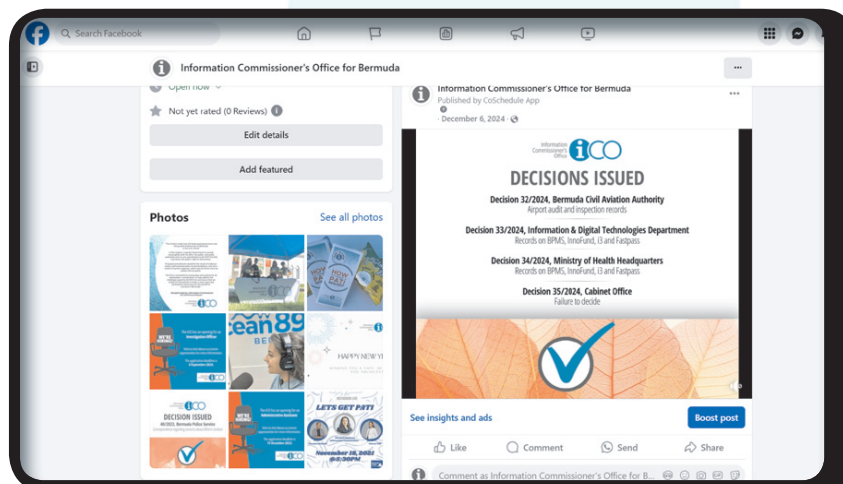
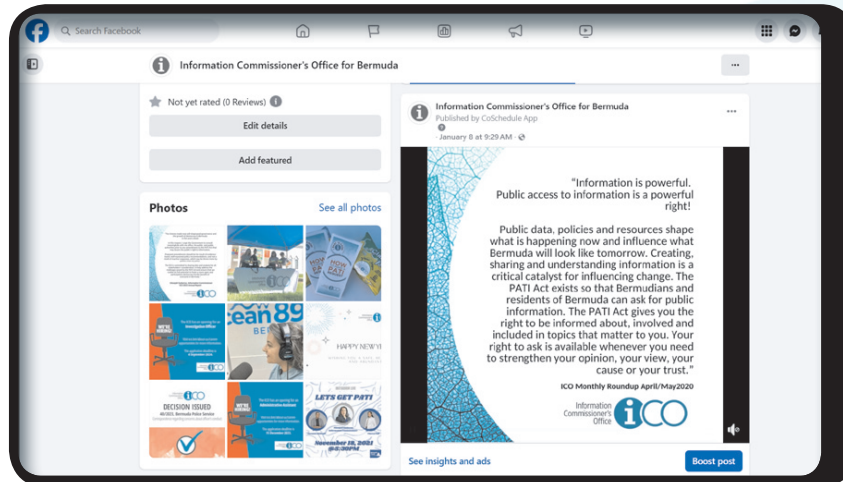
When public authorities understand their duties and the provisions of the PATI Act, and when the public is empowered to use their PATI rights, the combination has a powerful influence on accountability for public decisions in Bermuda.



Manager – Finance & Administration Tikitta Suhartono and Investigation Officer Kentisha Tweed, delivering food and toiletry donations to Claire Mello of Eliza DoLittle Society and Juanee Crockwell of Women's Resource Centre.

SOCIAL MEDIA OUTREACH

The ICO's social media presence has included **Facebook, Instagram, YouTube and LinkedIn**. Posts included insights from the Information Commissioner's decisions through press releases and blog posts, tips for understanding and using PATI rights, and updates on the ICO's operations. Most social media posts linked users to the ICO's website, where various resources and PATI-related information are available. All the ICO's educational videos and online public broadcasts are posted on its YouTube channel.



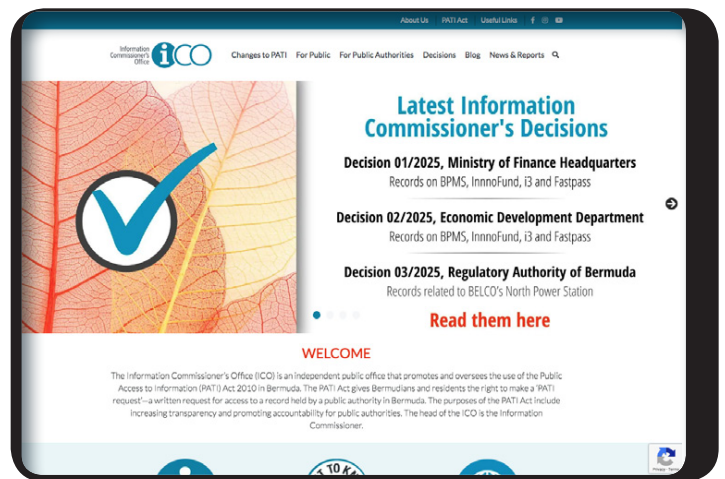
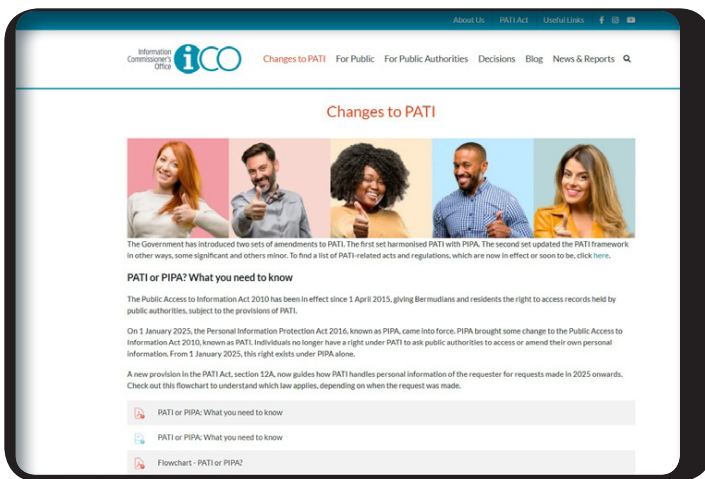
89,092
reach for social media
campaigns



4,753
engagement for
social media posts

WEBSITE RESOURCES

The ICO's website offers dedicated resources for the public and public authorities. A notable update during this period was the ICO's launch of a *Changes to PATI* webpage, which coincided with the Personal Information Protection Act (PIPA) coming into force. PIPA introduced changes to the PATI Act. The ICO's dedicated webpage shares timely updates and resources for the public and public authorities to understand the changes, now that PATI and PIPA coexist. It links to key pieces of legislation, a new ICO guidance, a flowchart and a flyer. It also summarises other PATI changes (besides those needed for PIPA), which took effect on 1 January 2025—and is a hub for more updates on what the ICO wishes for the public and public authorities to understand about the approved amendments to the PATI Act.



As part of its proactive disclosure duty, the ICO continued to post on ico.bm its staff meeting minutes, monthly credit card statements, quarterly expenditure reports as well as its updated PATI request log. The website also hosts a list of public authorities that fall under the PATI Act as well as their current information officers, heads of authority and latest information statements.

As a dynamic resource, the ICO's website is accessed on a regular basis by users. In this period, the ICO's website received over 40,000 views from over 7,141 users, with an average website session lasting 3:34 minutes. New users accounted for 49.67% of users, compared to 50.23% in 2023.



40,052
website views



RIGHT TO KNOW WEEK 2024

The ICO celebrated its 10th International Right to Know Day on 28 September 2024.

Information Commissioner Gutierrez's message, "From Transparency to Accountability", reinforced how, over the past ten years, PATI disclosures have been made by public authorities on a wide range of topics of interest to members of the public. She noted that any public authority resisting transparency has become an outlier, as the public now expects transparency around government decisions. She encouraged the public to continue conversations on what accountability can look like for Bermuda, while acknowledging that accountability does not mean perfection.

During the 2024 celebration of Right to Know Week, Information Commissioner Gutierrez held engaging local media interviews on *The Second Look* with David Sullivan on Ocean 89, Power 95's *Miss Thang Show* and *The Daily Hour* with Jamel Hardtman. She also shared a message at the 2024 UNESCO Global Conference on Universal Access to Information in a pre-recorded video.



International Right to Know Day booth



During Right to Know Week, the ICO officers hosted an information booth on Nelly's Walk in the City of Hamilton. This offered an invaluable opportunity for the public to speak with the ICO's team and learn firsthand how to use their PATI rights.

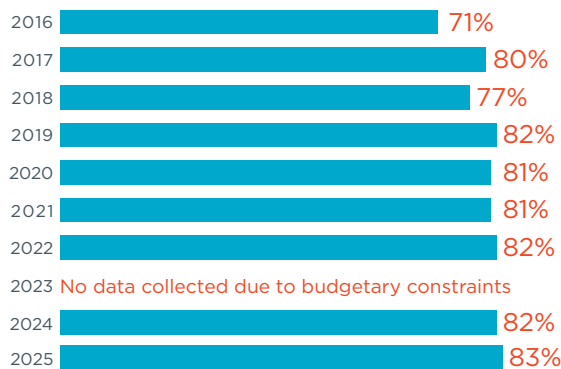
MONITORING PUBLIC AWARENESS

The ICO conducted its annual public awareness survey in February 2025. The ICO first commissioned this survey in 2016 to obtain baseline data on the impact of the ICO's work near the end of PATI's first year in operation (the 2015-2016 fiscal year). Each February, data have been collected through a national standalone survey, with a sample size of 400 and a 5% margin of error at a 98% confidence level. (The survey was not done in February 2023 due to the ICO's budget constraints.)

The data collected year over year since 2016 have allowed the ICO to assess whether its education and outreach efforts are maintaining or improving the public's awareness of PATI rights. Importantly, this information assists the ICO in identifying groups within Bermuda that may be most in need of the ICO's proactive outreach efforts to increase their understanding of their PATI rights.

In the 2025 survey, 83% of respondents had heard of the PATI Act, consistent with 82% in 2024, and 87% of respondents stated that the right to access public records was important to them, compared to 86% of respondents in 2024. These high levels of awareness were consistent with the data from prior years, as shown in the charts below.

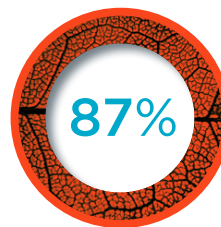
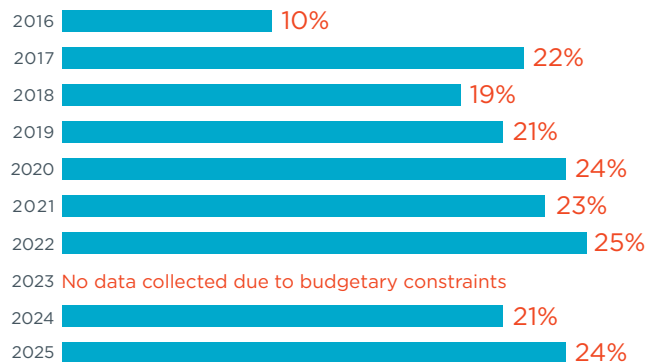
PERCENTAGE OF RESPONDENTS WHO HAVE HEARD OF THE PATI ACT



PERCENTAGE OF RESPONDENTS WHO BELIEVE THE RIGHT TO ACCESS PUBLIC RECORDS IS IMPORTANT TO THEM



RESPONDENTS WHO HAVE ASKED A PUBLIC AUTHORITY FOR A RECORD



87% of respondents said the PATI Act was important to them

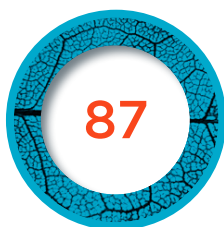
The right to access public records has become an ingrained and important part of citizens' relationships with public authorities. Since the ICO's 2016 public awareness survey, the percentage of respondents who have asked a public authority for a copy of a record has more than doubled, from 10% in 2016 to 24% in 2025, peaking at 25% in 2022.

PROVIDING GUIDANCE TO PUBLIC AUTHORITIES

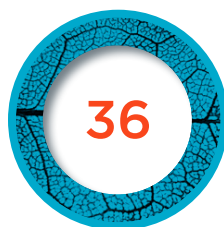
The Information Commissioner's mandate includes providing public authorities with guidance on how to meet their obligations under the PATI Act. The ICO seeks to achieve this through issuing guidance notes, sharing informal practice tips on the ICO's blog and social media, responding to enquiries, and holding Quarterly Briefings for public authorities to discuss learnings from recent Information Commissioner's reviews and decisions.

In this period, the Information Commissioner's Quarterly Briefings focused on enhancing critical skills for officers involved in the PATI process, so they could strengthen the effectiveness of their interactions with PATI requesters and their capacity to use the PATI framework in overcoming challenges that might arise while processing complex PATI requests. Topics included:

- Cabinet documents exemptions & effective PATI decision writing (July 2024),
- Responding to PATI requests after PIPA (November 2024), and
- Practical tips on consulting with PATI requesters (February 2025).



participants from government departments, quangos, statutory boards and committees, and parish councils attended the Quarterly Briefings.



different public authorities were represented.



Senior Investigation Officer Caitlin Conyers presenting at February 2025 Quarterly Briefing



Investigation Officer Kentisha Tweed presenting at February 2025 Quarterly Briefing

In 2024, the ICO published a new guidance note for public authorities, to address how to handle requests seeking the requester's own personal information once PIPA took effect. It supports stakeholders as they learn to manage the relationship between the PATI Act and PIPA, by explaining how public authorities can handle different types of requests from the public and respond in different scenarios.

“ Well presented and very engaging ” | “ Very useful and supportive ” | “ Very informative and provided clarity ”

“ Always appreciative of the time taken by the ICO to assist us with our understanding of the law ”

“ I am glad that there is a refresher on the earlier material and sessions ” | “ Interactive ”

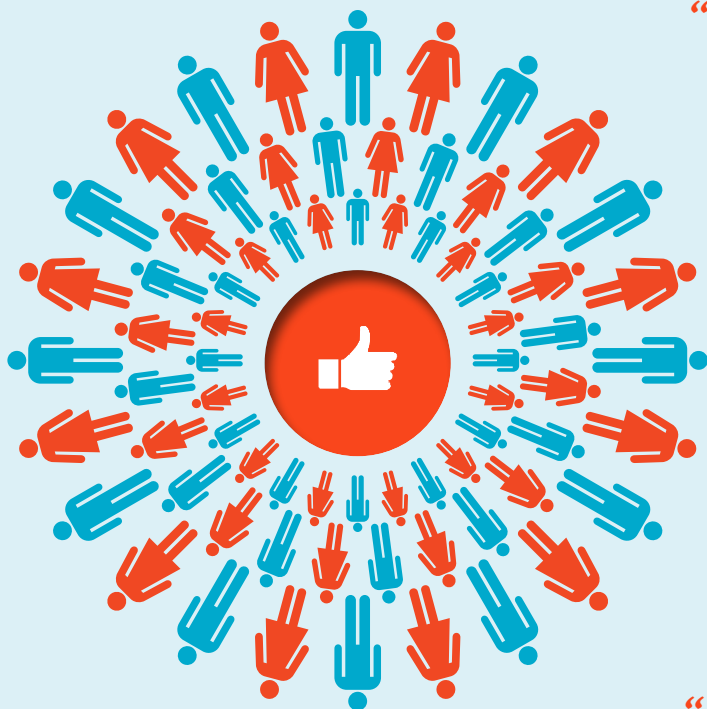
“ Excellent information on what we as Information Officers should be doing when requests come in as the legislation is added to in relation to PIPA ”

“ Effective and informative ” | “ A lot of information in a short time ”

“ Very informative and good networking event ”

“ Normalising transparency ” | “ This was a good one! ”

“ Best thing about event? ICO employees' energy ”



POSITIVE FEEDBACK

ON THE INFORMATION COMMISSIONER'S
QUARTERLY BRIEFINGS

“ ICO team are very knowledgeable and great at delivering information ”

“ Excellent ” | “ Extremely informative of what is to come ”

“ Excellent, especially the removal of some PATI applications to PIPA ”

“ Thank you for your dedication and commitment to supporting officers and the effective delivery of the PATI Act ”

“ Best thing about event? Interaction with other officers, and getting details from the officers ”

“ Excellent briefing as usual with clarity and simplicity to garner understanding ”

“ This was a great way to get clear on what else needs to be at the forefront of our work ”



Quarterly Briefing slides (with presenter's notes) and handouts are available on ico.bm.



CONSULTATIONS

As part of the Information Commissioner's mandate to promote public access to records and the purposes of the PATI Act, the ICO provides formal and informal consultation and engages with stakeholders and policymakers **to safeguard and strengthen the Bermuda public's access to public authorities' records.**

In 2024, the ICO continued to work with the Office of the Privacy Commissioner and the Cabinet Office's PATI/PIPA Unit on harmonising the PATI Act and the Personal Information Protection Act 2016. These efforts were reflected in the Personal Information Protection Amendment (Transitional) Regulations, which were gazetted in December 2024 to support the Personal Information Protection Amendment Act 2023 taking effect on 1 January 2025.

Consultation on updates to the Minister's *Practice Code on the Administration of the PATI Act*, to reflect the PIPA-harmonising amendments, took place with the Cabinet Office's PATI/PIPA Unit from December 2024 to February 2025.

Separately, in April 2024, the ICO resumed its work consulting with the Cabinet Office's PATI/PIPA Unit on other PATI amendments. This culminated in the Legislature's passage of the PATI Amendment Act 2024 in December. Most changes seen in the amendments, as tabled before the House of Assembly in November 2024, had been discussed and supported during various consultation sessions between the ICO and the PATI/PIPA Unit held in 2020, 2023 and 2024.

A notable exception was the Government introducing a time limit of 16 hours to process a PATI request, with 'reasonable charges' to be incurred beyond the limit. More details are discussed on page 36.

The ICO remains committed to continuing an engaged consultation with the Cabinet Office's PATI/PIPA Unit and to hearing directly from stakeholders about the 2024 amendments approved by the Legislature as well as on any future improvement to the PATI framework.

“The resulting amendments tabled today fall short of the comprehensive and well-established legislative frameworks found in other jurisdictions that strike an effective balance between managing the burdens on public authorities with the public's fundamental right to access public information . . . With these shortcomings in mind, I encourage the public to call for the Government to publicly consult on the appropriate limits amendments prior to setting any commencement date.”

Gitanjali S. Gutierrez, *Information Commissioner Urges Government to Seek Public Consultation on PATI Amendments*, 15 November 2024

ENFORCING THE RIGHT

JANUARY 2024 – DECEMBER 2024

REVIEWS AND DECISIONS

Every PATI requester, and concerned third party, has **a right to an independent review** by the Information Commissioner which may progress through these stages.



VALIDATION

The ICO will ensure the application meets the requirements of the PATI Act and confirm what the applicant wants to challenge. A valid application requires three basics:

- It must be written.
- The requester must have made a PATI request to a public authority.
- The requester (or concerned third party) must have asked that public authority for an internal review—and either must have received the public authority’s internal review decision or the authority’s 6-week statutory deadline to issue one must have passed.



EARLY RESOLUTION

If appropriate, the ICO may suggest that the parties attempt early resolution before the Information Commissioner begins with a review.



INVESTIGATION

The ICO will gather the public authority’s withheld records and relevant information, invite the parties to make submissions, and evaluate what is received. Parties may still attempt resolution, facilitated by the ICO, during the investigation stage.



DECISION

If the review is not resolved and withdrawn, the Information Commissioner will issue a legally binding decision to conclude the review. Following a decision, the Information Commissioner may take steps to enforce any order, for the benefit of the public.



You can learn more about the ICO’s review process in the ICO Reviews Policy and Handbook, posted on [ico.bm](https://ico.org.uk/for-the-public/requests/pati-reviews-policy-and-handbook).

INFORMATION COMMISSIONER’S 2024 REVIEWS

The ICO received 50 new applications for an Information Commissioner’s independent review in 2024, which decreased over the number of applications received in 2023.

INFORMATION COMMISSIONER’S CASELOAD FOR 2024

On 1 January 2024, the ICO carried over 41 open reviews from previous years. This brought the ICO’s total caseload in 2024 to 91 applications.

	2021	2022	2023	2024
CASELOAD				
Reviews brought forward from previous years	33	43	53	41
New applications	39	54	54	50
Total	72	97	107	91

By the end of 2024, the ICO had 30 open reviews. This downtrend in the ICO’s ‘carried over’ caseload—as shown in the counts for ‘reviews brought forward from previous years’—reflects the ICO’s dedicated efforts to address its backlog.



VALIDATION OF NEW APPLICATIONS

The Information Commissioner can only consider applications for review when the applicant has received the public authority’s internal review decision or has asked the public authority for an internal review and 6 weeks have passed since then.

	2021	%	2022	%	2023	%	2024	%
PROPORTIONS OF NEW VALID APPLICATIONS								
Valid	35	90	50	93	50	93	48	96
Invalid	4	10	4	7	4	7	2	4
Total	39	100	54	100	54	100	50	100

REASONS FOR INFORMATION COMMISSIONER'S REVIEW

Applicants asked the Information Commissioner for an independent review for various reasons. New reviews in 2024 involved a number of different exemptions at the validation stage, with the exemptions for law enforcement (section 34), commercial information (section 25) and personal information (section 23) relied on most often by public authorities.

	2021	2022	2023	2024
EXEMPTIONS CHALLENGED IN NEW CASES				
s.22 Health or safety	0	1	0	0
s.23 Personal information	5	12	8	6
s.25 Commercial information	2	8	11	10
s.26 Information received in confidence	3	8	6	4
s.27 Cabinet documents	0	5	0	0
s.28 Ministerial responsibility	0	0	2	2
s.29 Deliberations of public authorities	0	5	2	3
s.30 Operations of public authorities	1	10	4	4
s.31 Financial and economic interests	0	2	1	0
s.32 National security, defence and international relations	0	0	2	2
s.33 Governor's responsibilities	0	2	0	0
s.34 Law enforcement	5	18	7	13
s.35 Legal professional privilege	0	3	3	1
s.36 Contempt of court and parliamentary privilege	0	1	0	0
s.37 Disclosure prohibited by other legislation	1	3	3	2
s.38 Non-disclosure of existence of a record	0	1	1	2
Total	17	79	50	49

Applications challenging a public authority's 'failure to decide' decreased in 2024, compared to 2023. These 'failure to decide' reviews, where the applicant complained that a public authority had not met its most basic obligation to respond to their request for an internal review, are discussed on page 21.

Other reasons for seeking an Information Commissioner's review include that the public authority has denied a PATI request (in part or in full) on an administrative ground. For new reviews in 2024, the ICO continued to see more challenges to administrative denials than in prior years. The provision about records not existing was cited most often by public authorities (in section 16(1)(a) of the PATI Act). Over the years, no challenges have been raised to the Information Commissioner about a PATI request being administratively denied because a fee payable to provide a copy of a record had not been paid to the public authority (in section 16(1)(g)).

2021

2022

2023

2024

ADMINISTRATIVE DENIALS AND OTHER ISSUES CHALLENGED IN NEW CASES				
Failure to decide	14	16	24	17
s.4 Record not within scope of PATI Act	1	5	3	4
s.16 Administrative denial	7	12	14	16
Reasonableness of search	5	0	1	2
Other (e.g., manner of access given, insufficient assistance provided etc.)	2	3	8	0
Total	29	36	50	39

APPLICATION OUTCOMES

Of the 91 applications pending in 2024, the ICO closed 61 applications, or 67% of them. The portion of cases closed was higher in 2024, compared to 61% in 2023. Of those 61 applications closed in 2024, 64% were by decision. In total, the Information Commissioner issued 39 formal decisions in 2024, compared to 55 formal decisions in 2023.

APPLICATIONS CLOSED IN EARLY STAGES

Applications for an independent review received by the Information Commissioner may be closed in early stages either because they were invalid, abandoned or withdrawn, or because an early resolution was attempted and successful.

2021

2022

2023

2024

REASON FOR CLOSURE IN EARLY STAGES				
Invalid	4	4	4	2
Early resolution	0	0	0	0
Abandoned/Withdrawn	0	2	1	2
Total	4	6	5	4

REVIEWS CLOSED DURING INVESTIGATION

Reviews do not always result in a decision by the Information Commissioner. If the parties engage in a facilitated resolution at the investigation stage and settle all the issues, the Commissioner may accept an applicant’s choice not to pursue the review further.

	2021	2022	2023	2024
REASON FOR CLOSURE DURING INVESTIGATION				
Resolved	1	4	6	18
Abandoned/Withdrawn (other)	0	0	0	0
Total	1	4	6	18

In 2024, the ICO focused more on resolving reviews, as shown in a 200% increase in the total number of cases closed as ‘resolved’ during an investigation. Taking a resolution-based approach usually made sense when the ICO investigator recommended closing an information gap informally or to help the parties resolve some procedural misstep, without the need to progress the review to a legally binding decision by the Information Commissioner. This was especially useful when a decision by the Commissioner was less likely to get the applicant any closer to what they were really seeking. Read more about the ICO’s ‘value added’ approach on page 25.



increase in reviews closed by resolution



INFORMATION COMMISSIONER'S 2024 DECISIONS

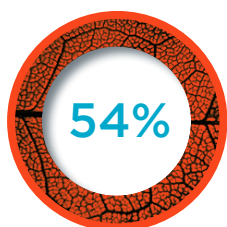
In 2024, the Information Commissioner issued 26 decisions on substantive issues and 13 ‘failure to decide’ ones. Of the 39 decisions issued, the Commissioner decided 14 of them for the applicant and the others upheld the public authority’s decision in whole or in part.

	2021	2022	2023	2024
DECISION OUTCOMES				
For applicant	14	17	26	14
For public authority	3	5	14	10
Partially upheld	5	12	15	15
Total	22	34	55	39

2024 DECISION HIGHLIGHTS

Of the Information Commissioner's 26 decisions on substantive issues, the Commissioner found 1 in favour of the applicant, 10 in favour of public authorities, and 15 as partially upheld.

Over a third of the Commissioner's decisions on substantive issues (9 out of 26) were for the Bermuda Police Service. All 'for applicant' decisions (besides one) were for 'failure to decide' reviews. For these 'failure to decide' decisions, 54% (7 out of 13) had a legally binding order by the Information Commissioner, requiring the head of authority to issue its outstanding internal review decision. In the other 'for applicant' decision, the Commissioner overturned the public authority's reliance on section 4, about the PATI Act not giving the public a right of access to those records.



of Information Commissioner's 'failure to decide' decisions in 2024 ordered a public authority to issue its outstanding PATI request decision

'FAILURE TO DECIDE' DECISIONS

Similar to 2023, one-third of the Information Commissioner's decisions in 2024 (13 out of 39) were for 'failure to decide' reviews, where the head of authority had missed their statutory deadline to issue an internal review decision within 6 weeks of an applicant asking for one. This count did not include five 'failure to decide' reviews where the applicant agreed to withdraw once the public authority's internal review decision was issued.

As the Information Commissioner highlighted in the 2023 Annual Report, **these failure-to-decide decisions highlight the ongoing need for good PATI practices and adherence to the Minister's *Practice Code on the Administration of the PATI Act*, to ensure that, at a minimum, all requesters receive a timely decision on their PATI request.**

What is a 'failure to decide'? When the head of a public authority has missed the statutory deadline to issue their internal review decision, a requester has a right to complain to the Information Commissioner. In a 'failure to decide' review, the Information Commissioner only enforces the right to receive an internal review decision, not whether the requester has a right to receive the records they asked for. This is because the PATI Act gives every opportunity for the public authority to first decide on the disclosure of its own records.

DECISION HIGHLIGHTS (CONT'D)

EFFECTIVE USE OF INTERIM ORDER

For the first time in the ICO's review process, the Information Commissioner issued an interim order to address a public authority's change in its position during the Commissioner's review. In Interim Order 01/2024, the Cabinet Office had changed its position in response to the Information Commissioner's notice of review. The PATI request had asked the Cabinet Office for correspondence related to the September 2023 cybersecurity attack against the government. Initially, the Cabinet Office acknowledged to the requester that it held responsive records and was refusing to release them under certain exemptions. Once the matter was before the Information Commissioner, the Cabinet Office changed its position and sought to refuse to disclose to the public whether records existed and therefore, did not provide the ICO with copies of any withheld records. The Information Commissioner issued the Interim Order to give the public authority the opportunity to challenge the Commissioner's conclusion. Once the Cabinet Office complied by re-affirming to the ICO that responsive records existed and by submitting a copy of them to the ICO, the Information Commissioner progressed the substantive review to consider the exemptions relied on by the Cabinet Office in its internal review decision.



PROMOTING TRANSPARENCY AND ACCOUNTABILITY

One of the primary purposes of the PATI Act is to increase the accountability of public authorities. Although there is an exemption to protect personal information from being disclosed under the PATI Act, the Information Commissioner has made clear in a number of 2024 decisions that the public interest may require the disclosure of executive officers' personal information, where it will shine light on a public authority's decision making or could reveal maladministration. Any disclosure would be limited to information that promotes such accountability and will rarely require the disclosure of personal information related to an individual's private life.

In Decision 10/2024, for example, the Information Commissioner found that it was fair and necessary in balancing the public interest in transparency and accountability, by ordering the Bermuda Police Service to disclose details about certain communications between

the then-Deputy Commissioner of Police and the then-Governor, including facts that the communications had happened and their timing. The substance of those communications, however, was still withheld because the Commissioner found its disclosure would have constituted an unfair invasion of individual privacy.

In contrast, in Decision 31/2024, nothing in the records suggested impropriety in the process followed. Therefore, the Information Commissioner found that disclosure of specific complaints made against officers (even ones holding senior positions) would not have promoted public accountability and transparency for the Bermuda Police Service, where those allegations remained unfounded.

The Information Commissioner has reinforced the importance of a public authority granting access to routine business information to promote transparency and accountability, in accordance with the PATI Act's purposes. In Decision 23/2024, the Information Commissioner ordered the Bermuda



Gaming Commission to disclose its quarterly expenditures, which public authorities are required to make available without a member of the public needing to make a PATI request, and to disclose its meeting minutes (with certain personal information and other exempt information redacted from the minutes). The Information Commissioner stressed that this type of information, about a public authority's operations and how it spends funds, should be made routinely available to the public.

MINUTES of the Board meeting of the members
“**Members**”) of the Bermuda Gaming Commission (the
“**Commission**”) held on the 24th day of November 2022
at 11:00am

Present:

Cheryl-Ann Mapp, Chairman
Judith Hall-Bean, Deputy Chairman
Renee Webb, Commissioner Member
Daniel Reece, Commissioner Member
Jonathan Smith, Commission Member

In Attendance:

Jean Major, Chief Executive
Charmaine Smith, Chief Executive Designate
Julie Grant, Chief Financial Officer
Marvin Hanna, Director of Legal
Dwight Furbert, Director of Finance, Human Resources
Oluremi Bademosi, Director of Regulation
Deborah Trott, Recording Secretary

1. **Chairman Notice and Quorum**

The meeting of 24th day of November 2022 was called to order. Jean Major was welcomed to his last Board meeting as Chief Executive.

2. **Approval of Minutes**

Approval of the minutes of the Board meeting held 27th October 2022 was proposed by [REDACTED] and seconded by [REDACTED].

3. **Chief Executive Report**

103 **Hotelco Bermuda Holding Limited (St. Regis)**

No new developments on the progress for the casino opening in spring 2023. A meeting was held with [REDACTED] at which the Commission requested a report from Hotelco/Marriott to be provided including suggested changes be made to the current legislation. 104

Correspondence is to be drafted by [REDACTED] for Board approval for issuance to the Hotelco/Marriott requesting payment of the mandatory casino licence issue fees in the amount of \$600k to be paid by 31st December 2022 or the casino licence will be revoked. At this time, no additional costs will be incurred by the Hotelco/Marriott. An invoice has been received from PwC for the internal controls’ development and review process for St. Regis. 105

106 **Hamilton Princess Casino Limited (HPCL)**

The operators have begun the process of submitting their suitability documentation which is currently under review by the regulations team.

Online Gaming

A report has been received from KPMG for the feasibility study carried out for online gaming and a meeting is scheduled for next week with KPMG to discuss the findings identified in the report. 107

Page 1 of 4

DECISION HIGHLIGHTS (CONT'D)

In [Decision 06/2024](#), the Information Commissioner ordered greater disclosure of contracts signed by litigation guardian panel members, showing any fee information and the panel member's name in the contracts, as the Commissioner found that the public authority's personal information redactions had been applied excessively.

CONDUCTING A REASONABLE SEARCH

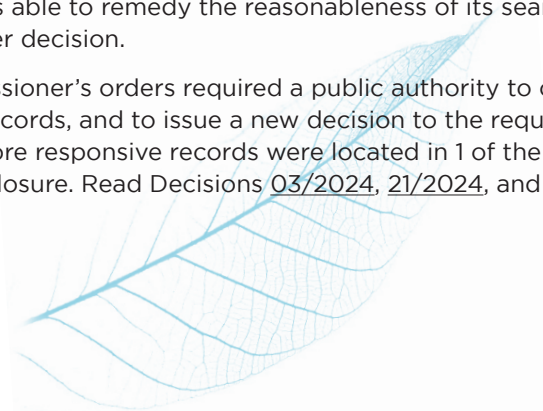
The PATI Act requires public authorities to make every reasonable effort to respond to requests completely, accurately and in a timely manner. This includes making reasonable efforts to locate records responsive to a PATI request.

A common challenge by applicants is that a public authority has not responded to their request completely and that they believe the public authority holds additional records. **Applicants rely on the ICO, as an independent body, to verify that a reasonable search for records has been conducted.** Where the ICO identifies gaps in a public authority's search, the ICO will often ask the public authority to search again during the review.

In [Decision 17/2024](#), for example, the public authority had searched email accounts without using search parameters or keywords, which resulted in an unworkable number of potential records. During the Information Commissioner's review, the searches were re-done with a more efficient approach using limiters that significantly narrowed the results, thus remedying the reasonableness of its search. When the public authority was re-doing its search, the ICO directed it to the ICO's guidances and resources on conducting reasonable searches.

In [Decision 39/2024](#), based on the initial set of withheld records submitted to the ICO, and submissions from the public authority about its search, the ICO identified more individuals within the public authority who could reasonably have held more responsive records. As is often done during the Information Commissioner's review, the public authority was able to remedy the reasonableness of its search before the Commissioner issued her decision.

In 2024, 3 of 14 Commissioner's orders required a public authority to conduct a fresh search for responsive records, and to issue a new decision to the requester following its additional search. More responsive records were located in 1 of the 3 matters, resulting in greater disclosure. Read [Decisions 03/2024](#), [21/2024](#), and [23/2024](#).



To learn more about conducting a reasonable search, see the Information Commissioner's Quarterly Briefing presentations: [Introduction to Practical Tips to Conducting a Search](#) (February 2024), with a [list of search operators](#); and [Duty to Assist and Conducting a Reasonable Search](#) (July 2018).

CLOSING THE INFORMATION GAP



In many of the Information Commissioner's decisions in 2024, **even where records were not ordered to be disclosed publicly, the public authorities' submissions described key information that was not known to the applicant—or the public.** The ICO, therefore, was able to identify and close these information gaps between public authorities and applicants. Through these Information Commissioner's decisions, the wider public has benefitted from fuller descriptions of certain processes within and between public authorities.

In Decision 01/2024, the Bermuda Monetary Authority clarified the difference between the removal of a company's license under the Digital Asset Business Act 2018 and the revocation of a license under that Act. In Decision 24/2024, through submissions from the Economic Development Department, the ICO was able to clarify the operations, responsibility and staffing of the Government's Fintech Business Unit, which had been moved from the Office of the Premier to the Economic Development Department and ultimately was merged into the Department's Business Services Division. The Department was able to explain its role in relation to fintech businesses in Bermuda and why certain records the Applicant expected to exist were not held.

In Decision 25/2024, the PATI request had sought the total amounts spent on overseas legal advice for the extradition of a named individual. The Bermuda Police Service explained that the Department of Public Prosecutions was the authority responsible for making extradition requests and that the Bermuda Police Service was involved only in carrying out the extradition. The ICO was able to clarify the extradition process for the Applicant through detailed submissions from the Bermuda Police Service.

In addition, the Information Commissioner has assisted applicants with communicating their requests and information needs, leading to a narrowing of requests and enabling a more efficient processing of requests for public authorities. In Decision 05/2024, for example, a PATI request had been made to the Commission of Inquiry into Historic Land Losses in Bermuda, for internal correspondence between the Commission and its former Senior Counsel. This resulted in over 300 records being located and submitted to the ICO as responsive

withheld material. After clarifying that the Applicant was specifically looking for records related to the former Senior Counsel's resignation, the number of responsive records was drastically reduced to four records. The Information Commissioner ordered one record to be disclosed in part, and it was released to the Applicant by the deadline ordered.

SUBSTANTIAL AND UNREASONABLE INTERFERENCE

As the Information Commissioner raised in her public statement on the PATI Amendment Bill in November 2024, an administrative denial in section 16(1)(c) of the PATI Act enables a public authority to deny a request where processing it would cause a substantial and unreasonable interference with a public authority's other work. **If this provision was better understood and applied by public authorities, it could alleviate some of the Government's concerns about administrative burdens on public authorities caused by obligations imposed by the PATI Act.**

Reliance on this provision requires public authorities to first meaningfully consult with a requester to focus their request. Where a requester is unable or unwilling to focus their request, a public authority can rightfully rely on this administrative denial. It is still open to a requester to make another request for records confined to a more limited timeframe or to a more limited subject or topic.

In 2024, the Information Commissioner upheld reliance on this provision by three public authorities to deny two PATI requests in full and one request in part. In Decision 22/2024, the Applicant had asked for the

entire police investigation file on a high profile case. Although the Applicant had attempted to refine the request, the Information Commissioner still found that processing their narrowed request would have caused an unreasonable and substantial interference with the Bermuda Police Service's other work.

In Decision 32/2024, the Applicant had asked for all audit and inspection reports for the L. F. Wade International Airport from 2020 to 2023, along with all documentation and reports produced by the Bermuda Civil Aviation Authority's technical officers in that period. The Information Commissioner accepted the public authority's position. In Decision 16/2024, part of the PATI request was for the total number of cases assigned by the Legal Aid Committee to two named counsel. Due to the nature of the Legal Aid Office's record-keeping and the way assignments were done, the Information Commissioner found that the Legal Aid Office was justified in administratively denying that part of the Applicant's request.



Photo courtesy of Bernews

As described above, often two major information gaps exist between public authorities and requesters. The first is about the types of records and information held by a public authority. Without information about a public authority's record-keeping, it is difficult for a requester to make a PATI request for a specific record or type of record.

A well-prepared information statement by the public authority is a good starting point to help a requester understand what types of records the authority holds and what activities it engages in. In the absence of this, or where a requester has questions

about specific activities or records, meaningful discussion by a public authority provides an opportunity to explain the specific types of records the authority holds, which might satisfy their request and enable the PATI request to be focused based on the information shared.

Secondly, it may not always be obvious on the face of a PATI request what information a requester is seeking. A requester can assist public authorities by clearly explaining their information needs. For instance, when a requester uses a certain term, they can point to their information source for when they heard or read about it, as part of their PATI request.

REVIEW PROCESS HIGHLIGHTS

In 2024, the Information Commissioner placed greater emphasis on resolving reviews between applicants and public authorities. The Information Commissioner and ICO officers were able to identify less contentious reviews, reviews where the records requested overlapped with those in another review, and reviews that could be resolved by narrowing requests with the applicants and filling in information gaps between the parties.



In 2024, the Information Commissioner closed 15 substantive reviews through resolution (plus five 'failure to decide' reviews), where the applicant agreed to withdraw their independent review application. **This effort to resolve reviews, where possible, enabled the ICO to focus resources on reviews that were more contentious or complex and to continue reducing its caseload backlog.**

In addition, the Information Commissioner has improved transparency with applicants around the ICO's processes for enforcement of orders, where public authorities had been ordered to take certain actions by a certain date but had failed to comply with the Commissioner's order or other instruction. The ICO's [Reviews Policy & Handbook](#) (June 2016) explains the Information Commissioner's progressive approach to enforcing orders, which balances the need for compliance against the burden of judicial enforcement. Where a public

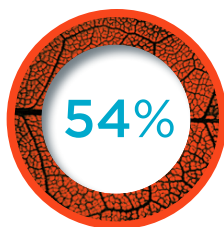
authority is making a good faith effort to comply with an order but asks for more time, the ICO will refrain from judicial enforcement and generally will work with the public authority and the applicant to ensure the order's requirements are met albeit out of time.

For the first time in 2024, the ICO began sharing with applicants when the Information Commissioner had escalated enforcement by sending a letter before action from its legal counsel to a public authority. Although the Commissioner has never been required to initiate a legal proceeding to enforce a decision, on a number of occasions, the ICO's external legal counsel has been engaged to send a letter before action to compel a public authority's compliance with an order. In 2024, the Information Commissioner was required to issue letters before action through counsel to the Cabinet Office to compel compliance for Decisions [28/2022](#), [49/2023](#) and [50/2023](#).

The ICO now informs applicants when post-decision enforcement has escalated to the ICO's legal counsel sending a letter before action to a public authority, which the Information Commissioner views as an unnecessary delay and expenditure of public funds.



Public authorities may always seek judicial review of an Information Commissioner's order but cannot ignore it.



of Information Commissioner's decisions in 2024 ordered a public authority to take action

In 2024, 54% (21 out of 39) of the Information Commissioner's decisions required the public authority to take certain action by a deadline set out in the Commissioner's order. Of those 21 decisions, public authorities complied on time in 4 instances and out-of-time in 14, with compliance outstanding for 1 order.

The Information Commissioner's decisions are published on ico.bm, one week after being issued to the parties. The ICO also posts a monthly update on the total number of applications for review, grouped by their status, along with a total number of the Information Commissioner's decisions where the public authority's compliance with an order was pending at the end of the month.

COMPLIANCE OVERSIGHT

The PATI Act significantly strengthens access to public information by placing obligations on public authorities to make specific information available to the public as a matter of course, without the need for a PATI request. The Information Commissioner is mandated to oversee and, where required, enforce public authorities' compliance with these requirements.

PROACTIVE PUBLICATION (PART 2 OF PATI ACT)

Public authorities must:

Publish an Information Statement (and update it at least once a year).

Maintain a PATI request log (without any personal information) readily available for the public.

Have a quarterly expenditure report readily available for the public (when the authority has its own budget).

Gazette details of all contracts for goods or services with a total value of \$50,000 or more.

PUBLIC AUTHORITIES' PATI REPORTS (SECTION 58 OF PATI ACT)

At the end of each calendar year, public authorities must submit their annual PATI reports to the ICO to be included in the Information Commissioner's annual report to the Legislature. Public authorities' PATI reports to the ICO must include the number of PATI requests they received, the number of times various exemptions were involved, and the public authority's disposition of the PATI requests (including how many internal review requests were made).

ICO 2024 ANNUAL RETURN

The ICO expanded use of an annual return process in 2018 for tracking public authorities' compliance with all proactive publication duties under the PATI Act, including to gazette all qualifying contracts, while receiving their annual PATI report.

Importantly, public authorities are aware as they procure goods and services that the details of qualifying contracts, including consultant contracts, must be gazetted at least once a year. Requiring this information to be made public, without the need for a PATI request, encourages good decision making and public procurement practices.

During the ICO 2024 annual return, 180 of the 187 public authorities met their duty in section 58 of the PATI Act to report on their PATI requests to the Information Commissioner. As described on page 31, public authorities' annual reports on the number of PATI requests they received enable the Information Commissioner, public authorities and the public to better understand the use and administration of the PATI Act.

ICO ANNUAL RETURN	2023		2024	
	No. of Public Authorities	% of Total Number	No. of Public Authorities	% of Total Number
Timely submissions	105	55.3	91	49
Late submissions	73	38.4	86	46
Failed to submit	2	1.1	7	3
Under review	10	5.3	3	2
Total	190	100	187	100



To learn more about the ICO's annual return process, visit ico.bm to read the ICO's guidances and other resources.

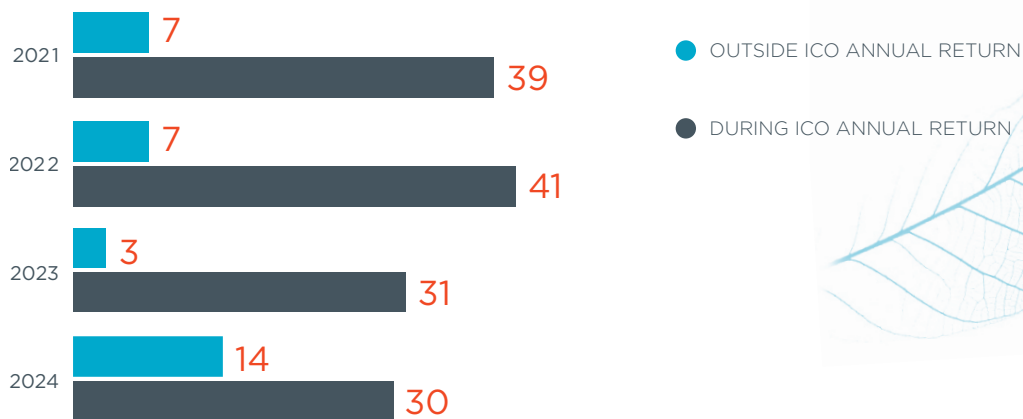
PUBLIC CONTRACTS

The requirement in section 6 of the PATI Act, to publish a gazette notice with certain details of any contract for goods or services with a total value of \$50,000 or more, is broad. It extends to all qualifying contracts for consultants and contractors, rent, IT services, databases, property repairs and construction, and more. The [ICO's annual return guidance](#) discusses how public authorities should calculate costs for multi-year contracts or contracts with an 'evergreen clause' (which allow a contract to extend automatically without amending the contract).

Gazette notices are posted online for the public in the [Official Gazette](#) (hosted on the government website) and are available in print at the National Library and the Archives.

During the ICO 2024 annual return period, from December 2024 to February 2025, 29 different public authorities gazetted 30 notices detailing contracts with a total value of \$50,000 or more. In comparison, from the end of the 2023 period until the start of the 2024 period, 12 different public authorities gazetted 14 notices for their qualifying contracts (i.e. between March and November 2024).

NUMBER OF GAZETTE NOTICES FOR QUALIFYING CONTRACTS



Gazette notices for contracts with a total value of \$50,000 or more inform the public about the vendor, the goods or services provided, the total amount of the contract, and the contract time period. They offer the Bermuda public an important tool, strengthening the public's ability to hold public authorities accountable for public spending decisions.

2024 PATI REQUEST REPORTS

JANUARY 2024 – DECEMBER 2024

Section 58(3) of the PATI Act requires public authorities to submit their annual PATI request report to the Information Commissioner for publication. The ICO annual return process includes a form for public authorities to record and inform the Information Commissioner of details on PATI requests they handled, as set out in section 58(2). This includes a 'nil' confirmation where during 2024 the public authority did not handle any PATI requests. The ICO may supplement an authority's PATI request report based on information known from the ICO's review and enquiry files.

2024 PATI REQUEST REPORTS	Number of Public Authorities	% of Total
Received PATI requests in 2024	43	23
Did not receive PATI requests in 2024	134	72
No PATI request information available	7	3
Under review	3	2
Total	187	100

NONCOMPLIANCE WITH SECTION 58(3) REPORTING

After unsuccessful efforts to encourage compliance with section 58(3), the Information Commissioner notified the 7 public authorities below that they would be listed in this Annual Report as noncompliant with section 58(3) of the PATI Act, by not submitting a required PATI request report.

- Berkeley Institute Board of Governors
- Department of Corrections
- Financial Assistance Review Board
- Ministry of Justice Headquarters
- Pembroke Parish Council
- Sandys Parish Council
- Whitney Institute Board of Trustees

2024 PATI REQUESTS

Public authorities reported that 177 new PATI requests were made for access to records under section 13 of the PATI Act. Another 23 PATI requests were reported as pending at the end of 2023 and carried over to 2024. This meant public authorities handled a total of 200 PATI requests during 2024.

	2021	2022	2023	2024
TOTAL PATI REQUESTS				
Reported new requests	135	158	189	177
Reported requests carried over from prior year	14	8	26	23
Total requests in processing for year	149	166	215	200

Public authorities with the highest number of new 2024 PATI requests, as reported or otherwise known to the ICO, were the Bermuda Police Service (93 requests) and the Ministry of Justice Headquarters (8 requests). The ministry with the highest number of reported PATI requests for only government departments was the Ministry of Justice, with 22 known requests received by its various departments.

In addition to the 43 public authorities that received new PATI requests in 2024 (as reported), 3 more authorities were handling requests in 2024 from the prior year. Those 46 public authorities, with the number of PATI requests they handled in 2024, are listed below.

GOVERNMENT DEPARTMENTS HANDLING PATI REQUESTS DURING 2024			
Accountant General's Department	3	Department of Public Lands & Buildings	1
Attorney General's Chambers	3	Department of Public Prosecutions	6
Bermuda Fire & Rescue Services	1	Department of Social Insurance	1
Bermuda Post Office	1	Department of Works & Engineering	2
Cabinet Office Headquarters	5	Judicial Department	3
Customs Department	6	Ministry of Education Headquarters	1
Department of Child & Family Services	2	Ministry of Finance Headquarters	4
Department of Education	1	Ministry of Health Headquarters	3
Department of Employee & Organisational Development	3	Ministry of Home Affairs Headquarters	1
Department of Health	3	Ministry of Justice Headquarters	10
Department of Immigration	2	Ministry of National Security Headquarters	2
Department of Information & Digital Technologies	1	Ministry of Public Works Headquarters	2
Department of Parks	5	Registry General	1
Department of Planning	1	Transport Control Department	1

OTHER PUBLIC AUTHORITIES			
Bermuda Business Development Agency	1	Board of Trustees of the Golf Courses	1
Bermuda College Board of Governors	1	Corporation of Hamilton	2
Bermuda Gaming Commission	1	Environmental Authority	1
Bermuda Health Council	1	National Parks Commission	1
Bermuda Hospitals Board	4	Office of the Governor	1
Bermuda Monetary Authority	2	Police Complaints Authority	1
Bermuda Police Service	102	Public Service Commission	1
Bermuda Tourism Authority	2	Royal Bermuda Regiment	2
Board of Agriculture	1		

INITIAL DECISIONS

The reported outcomes of all 200 PATI requests are shown below.

	2021	2022	2023	2024	%
INITIAL DECISION OUTCOMES (AS AT YEAR END)					
Pending	9	24	14	18	9
Access granted in whole	33	42	36	40	20
Access granted in part	39	31	56	38	19
Access refused in whole	56	59	88	100	50
Unknown	12	10	21	4	2

Public authorities must report on the number of times they invoke exemptions and rely on administrative denials, where records as requested were not disclosed, in their initial response to the PATI request. As shown on page 33, in 2024 the most common exemptions were for personal information (section 23) and law enforcement (section 34). The most frequently cited administrative ground for refusal was because records did not exist or could not be found (section 16(1)(a)).

Where a provision is not listed, it has not been reported to the ICO as a reason for refusal during the years shown.

		2021	2022	2023	2024
REASONS FOR REFUSAL IN INITIAL DECISION					
s.4	Record not within scope of PATI Act	2	3	16	23
s.16(1)(a)	Administrative denial because record did not exist or could not be found	25	22	33	58
s.16(1)(b)	Administrative denial because insufficient information in request	1	1	2	4
s.16(1)(c)	Administrative denial because request would cause substantial and unreasonable interference or disruption	5	5	2	7
s.16(1)(d)	Administrative denial because publication of information is required by law within 3 months	0	0	1	0
s.16(1)(e)	Administrative denial for frivolous or vexatious request	1	0	2	6
s.16(1)(f)	Administrative denial because information is already in public domain	11	9	10	7
s.16(1)(g)	Administrative denial because fee payable under section 20 not paid	0	0	1	0
s.22	Health or safety	3	0	1	0
s.23	Personal information	27	18	18	28
s.25	Commercial information	2	1	12	7
s.26	Information received in confidence	8	10	7	6
s.27	Cabinet documents	0	0	0	1
s.28	Ministerial responsibility	3	0	1	1
s.29	Deliberations of public authorities	5	9	4	5
s.30	Operations of public authorities	6	4	21	12
s.31	Financial and economic interests	0	0	2	0
s.32	National security, defence and international relations	1	0	6	0
s.33	Governor's responsibilities	0	2	3	0
s.34	Law enforcement	11	15	14	24
s.35	Legal professional privilege	3	2	7	1
s.37	Disclosure prohibited by other legislation	3	6	8	10
s.38	Non-disclosure of existence of a record	0	1	5	10
	Failure to decide	9	18	30	14

In 2024, no public authority reported receiving any new request to amend a record of personal information under section 19 of the PATI Act. Since this right was removed from PATI on 1 January 2025 (and now available to the public under PIPA), the ICO will no longer have a statutory duty to report data on an individual's request to amend a record of their personal information held by a public authority.

INTERNAL REVIEWS

Public authorities reported that individuals sought internal reviews 52 times in 2024. The outcome in 1 case was unknown. Most internal review decisions denied access to records, as shown in the following table.

	2021	2022	2023	2024
INTERNAL REVIEW OUTCOMES				
Pending	2	0	7	0
Grant access in whole	5	9	1	4
Grant access in part	8	7	12	9
Refuse in whole*	13	20	26	37
Referred to Commissioner**	3	0	1	2
Total reported internal review decisions	31	36	47	51

*Failure to issue a timely internal review decision (where the statutory deadline fell within the same calendar year of the PATI request date) was recorded as a refusal in whole.

**This meant the request for an internal review was referred under section 44 to the Information Commissioner, because the head of authority had made the initial decision on the PATI request; in other words, the internal review stage was skipped.

The reasons invoked by public authorities in 2024 to refuse PATI requests at the internal review stage are captured in the following table.

		2021	2022	2023	2024
REASON FOR REFUSAL IN INTERNAL REVIEW DECISION					
s.4	Record not within scope of PATI Act	0	0	3	7
s.16(1)(a)	Administrative denial because record did not exist or could not be found	5	6	11	24
s.16(1)(c)	Administrative denial because request would cause substantial and unreasonable interference or disruption	0	1	1	1
s.16(1)(d)	Administrative denial because publication of information was required by law within 3 months	0	0	4	0
s.16(1)(e)	Administrative denial for frivolous or vexatious request	0	0	0	2
s.16(1)(f)	Administrative denial because information was already in public domain	0	3	0	2
s.23	Personal information	3	7	3	11
s.25	Commercial information	3	4	0	2
s.26	Information received in confidence	2	5	0	3
s.27	Cabinet documents	0	1	0	0
s.28	Ministerial responsibility	1	1	2	1
s.29	Deliberations of public authorities	0	7	1	4
s.30	Operations of public authorities	0	6	5	5
s.31	Financial and economic interests	0	0	0	1
s.32	National security, defence and international relations	0	0	0	2
s.33	Governor's responsibilities	0	3	2	0
s.34	Law enforcement	7	11	0	15
s.35	Legal professional privilege	0	2	9	4
s.36	Contempt of court and parliamentary privilege	0	0	3	0
s.37	Disclosure prohibited by other legislation	0	2	0	1
s.38	Non-disclosure of existence of a record	0	2	3	6
	Failure to decide	6	2	1	3
	Request for internal review out of time	0	0	1	0

IMPROVING ACCESS TO INFORMATION

In the past, the ICO has highlighted opportunities to strengthen the framework under the PATI Act and access to information rights. Last year's Annual Report warned of potential uncertainties surrounding legislative amendments to the PATI Act. In 2024, some of the amendments to the PATI Act have lessened access to information rights for Bermudians and residents. Future improvements to the PATI regime will require ongoing engagement by the public. Another part of advocacy is to consider establishing a centralised unit, which would streamline processes and improve the quality of PATI decisions. The ICO looks forward to future opportunities to consult on any regulations in support of the PATI amendments and in hopes that access to public records is not cost prohibitive.

PUBLIC CONSULTATION AND PATI AMENDMENTS

The PATI Amendment Act 2024 was passed in November 2024 and introduced a number of changes. The ICO had consulted with the Government for several years on a group of these amendments to strengthen the governance and administration of the ICO, as well as to improve the efficiency of processes for public authorities. This included clarity on the process for transferring PATI requests and third-party notifications. Broader decision-making authority for Information Officers was identified as another tool to improve efficiency.

Unfortunately, among the changes, new 'appropriate limits' provisions were added that will create restrictions on the public's right to access information. Aspects of this policy were adopted without consultation with the Information Commissioner or the public. The Commissioner continues to emphasise the importance of public and stakeholder consultation as the appropriate democratic tool to give the people a voice on the laws that affect them.

Under the amendments, once a public authority locates the records responsive to a PATI request, it can spend up to 16 hours only reviewing the records, determining if exemptions apply, handling third-party notifications, and preparing its initial decision. Beyond these 16 hours, the public authority will charge the requester \$60 per hour to complete its response to the PATI request. If the requester does not pay the charge, the request will be administratively denied.

Charges for processing a request can be found in other countries' laws but are more balanced. **The amendments establishing charges for processing a PATI request lack the important and well-established safeguards found in other jurisdictions, such as exceptions for requests of national importance and for requesters who may lack the means to pay charges.**



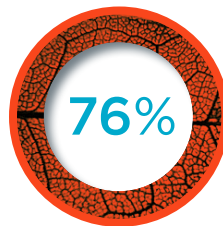
[Read the Information Commissioner's Statement on the Introduction of the Public Access to Information Amendment Bill 2024 \(November 2024\).](#)

“Pati, arguably Bermuda’s most important democratic safeguarding mechanism, has been placed behind a paywall.”

Asha Symons, *Opinion: Democracy or kakistocracy? You decide*, The Royal Gazette, 11 January 2025

At the same time the PATI Amendment Act was passed, another amendment to the Customs Act was passed, which seeks to remove certain records obtained by the Customs Department from disclosure under the PATI Act. It was, again, passed without any consultation with the ICO or the public.

In the 2019 Annual Report, the Information Commissioner previously reported on the quiet introduction of such amendments into governing legislation. In the ICO’s most recent national public awareness survey, 76% of the respondents agreed that it was important to them for the Government to engage in public consultation when considering changes to the PATI Act. The mandate from the public is clear. The Information Commissioner urges the Government to listen to the public and urges the public to continue being vigilant about protecting their right to know, through calls for consultation and the robust use of the PATI Act.



of national survey respondents affirmed that public consultation on proposed PATI changes was important to them

CENTRALISED PATI UNIT

For years, the Information Commissioner has called for greater commitment by Heads of Authorities and other decision-makers to adequately resource public authorities so they can meet their PATI responsibilities. This includes ensuring sufficient staffing, training and tools. This continues to be an issue that public authorities struggle with.

With the Honourable Premier’s statement in December 2024 that the Government would not hire more officers to manage PATI obligations, it is time to reconsider the establishment of a centralised unit to offer public authorities support in responding to specific PATI requests. The current PATI/PIPA Unit within the Cabinet Office is responsible for general training and technical advice on legislative changes, in addition to their PIPA-related responsibilities. Limited resources in the PATI/PIPA Unit mean prioritising when they can offer assistance to public authorities on PATI requests. Advice is typically directed to challenging or complex PATI requests.



	2021	2022	2023	2024
NUMBER OF PUBLIC AUTHORITIES THAT REPORTED RECEIVING NEW PATI REQUESTS				
5 or less requests	31	40	43	41
Between 6 and 12 requests	3	6	5	1
12 or more requests	1	1	1	1
Number of authorities reported new requests	35	47	49	43

As can be seen in the table above, the vast majority of public authorities do not routinely handle PATI requests. For instance, in 2023, 43 of the 49 public authorities received 5 or less requests that year, while only 6 authorities received 6 or more requests. An Information Officer or head of authority may respond to a PATI request only a few times a year, which can create challenges. **Significant burdens on public authorities could be alleviated if an Information Officer (or head of authority) could call on a centralised unit to apply its PATI subject matter expertise to the records at issue and explanations given by the Information Officer about its authority's work and decision making.**

A similar model is currently used by the Government for the management of public funds. The Accountant General's Department ensures that controllers with technical expertise in accounting are available to assist accounting officers, who are usually lay persons without accounting training. The controller can guide the accounting officer through Financial Instructions, the Office of Procurement and Project Management's Code of Practice and published accounting standards, to ensure that the accounting officer has access to the technical knowledge needed to make a correct, well-reasoned decision.

The Government also has experience in creating such units by drawing on existing public officers and their expertise. For example, this was done with the original PATI unit within the Cabinet Office and the FinTech Business Unit (as described in paragraph 22 of [Decision 24/2024](#)).

A centralised unit with PATI technical expertise could support an Information Officer or Head of Authority in the proper application of existing PATI provisions, allowing a public authority to make effective offers to assist a requester with narrowing their request and as needed to deny a burdensome request. As highlighted on page 25, often it is not until an Information Commissioner's review when an information gap is addressed, which can resolve some or all issues being challenged by a requester.

STRENGTHENING THE ORGANISATION

As a forward-looking, independent oversight body, the ICO continually seeks to improve the quality and effectiveness of its work, as well as the infrastructure that supports its efforts.

PROFESSIONAL DEVELOPMENT

Public officers in the ICO remain the office's most valued assets. Information Commissioner Gutierrez's commitment to leadership development and succession planning culminated in 2024. Ms. LaKai Dill was appointed as the Deputy Information Commissioner and Ms. Caitlin Conyers as the Senior Investigation Officer, five months prior to Commissioner Gutierrez's end of term. Despite budget constraints, funds were made available for specialist training, which supported Ms. Dill and Ms. Conyers each achieving a practitioner certificate in freedom of information (based on the UK's law).

During 2024, the ICO's officers all participated in various local and virtual training sessions. Most were offered through the Department of Employee & Organisational Development and focused on learning the government's systems and processes, such as overviews of Bermuda's new personal information protection (PIPA) framework, the Code of Practice for Project Management & Procurement, and Financial Instructions; user training for the government purchasing system; and understanding how Bermuda's legislation is developed from policy. Other training focused on people management skills and workplace engagement. The Information Commissioner also benefited from a preparation session facilitated each month by colleagues in the Office of the Privacy Commissioner on PIPA-readiness.










INTERNATIONAL RELATIONSHIPS

Information Commissioner Gitanjali Gutierrez continued to serve on the Executive Committee of the International Conference of Information Commissioners (ICIC). The Bermuda ICO's second term on the ICIC Executive Committee extends until 2026. The ICIC is the only permanent international network of Information Commissioners. Collectively, the ICIC protects and promotes access to public information as a fundamental pillar to social, economic and democratic governance globally.



Find out more information about the ICIC at informationcommissioners.org. View recordings of the 2024 conference's 'open' sessions on the ICIC's YouTube channel.

Effective December 2024, the ICIC Executive Committee members were:

	Albania	(Interim Chair and Secretariat) – Information and Data Protection Commissioner
	Buenos Aires, Argentina	Guarantor Body for the Right to Access the Information
	Australia	Office of the Australian Information Commissioner
	Bangladesh	Information Commission
	Bermuda	Information Commissioner's Office
	Germany	Federal Commission for Data Protection and Freedom of Information (Host 2025)
	Kenya	The Commission on Administrative Justice
	Sierra Leone	Right to Access Information Commission (Host 2026)
	South Africa	Information Regulator

In June 2024, Information Commissioner Gutierrez and the then-Acting Deputy attended the 15th annual conference of the ICIC in Tirana, hosted by Albania's Information and Data Protection Commissioner. The conference theme was *Empowering individuals through access to information: ensuring transparency and inclusivity in an interconnected world*. During a panel discussion on the opening day, Commissioner Gutierrez offered insightful commentary for small island developing states based on Bermuda's experience with access to information. She also delivered the conference's closing remarks. The ICIC's conference summary report was circulated in July 2024 and available online (or by contacting the ICO).

Over the years, the Bermuda ICO has benefitted extensively from collaboration with ICIC partners in all aspects of its work. Following the 2024 conference, the ICIC working group on *Transparency by design* was renamed to *Access to information principles*. The working group's goal is to develop a set of foundational principles for access to information rights and the protection and promotion of Information Commissioners. Commissioner Gutierrez joined the first virtual meeting of this working group in December 2024. The ICO's participation will continue.

FINANCES

The ICO proactively publishes details of its financial decisions and public expenditures. The public may find the ICO's financial policies and procedures, budget, salary scales, contracts, credit card statements, unaudited quarterly expenditures and audited financial statements on ico.bm.

During February 2025, the ICO's audited financial statement for the fiscal year ending 31 March 2023 was approved, with the Auditor General's audit of the ICO's draft financial statement for the fiscal year ending 31 March 2024 nearly completed. The ICO has renewed its commitment to submit its accounts for the fiscal year ending 31 March 2025 to the Auditor General, as required under section 55(4) of the PATI Act, shortly after the closing of the Accountant General's year-end process described in section 55(3). The ICO's original budget estimate for the fiscal year ending 31 March 2025 was \$1,116,902.

To ask for more information about the ICO's activities, email info@ico.bm.



REFLECTIONS

GITANJALI S. GUTIERREZ
INFORMATION COMMISSIONER
March 2015 - February 2025

When the PATI Act went into effect in April 2015—only a quick blink after my appointment four weeks prior—every public authority in Bermuda published an ‘Information Statement’ that provided the authority’s remit, activities, organisational chart, categories of records, decision-making documents, and contact information for making a PATI request. I will never forget the reaction of the public to seeing those Information Statements after years of government departments operating behind closed doors. The public’s much anticipated sunshine of public scrutiny had begun.

In many ways, the most powerful impact of the PATI Act has not been its legal framework, as critical as that framework has been. Rather, it is the powerful cultural change that PATI rights both reflect and encourage. As Bermudian scholar Dr. Kristy Warren has explored, the law itself arose out of the good governance movement in the 1990s. Public access to information was promoted with the belief that public accountability would improve the quality of decision making and delivery of services by public authorities. At the end of her 2015 article on the emergence of the PATI Act, Dr. Warren observed that “It remains to be seen how resilient such legislation will be in the face of ingrained traditions and legacies of secrecy which are not only reinforced by past practice, but also respond to the demands of modern business and the ingrained antagonisms of party politics.”

Ten years after PATI rights went into effect, the legislation has been resilient—and has grown in strength to challenge the legacies of secrecy. Bermudians and residents’ use of their PATI rights is encouraging a seismic shift in the relationship between those that govern and those that are governed. But the cultural change, this shift in mindset and practice, has not been equal.

The public now has an unequivocal expectation that the government and other public authorities will conduct the people’s business and spend the people’s money in an open and accountable manner. On the people’s side, the ingrained traditions and legacies of secrecy have given way to modern practices of engagement, openness and accountability.

Yet, within government and other public authorities, the change has been slower. Champions of transparency within public authorities may find themselves isolated or facing criticism. These brave individuals have been the cornerstones of progress and lead the way. In contrast, some within public authorities still question why the public needs to know about their activities. This is a mindset that is no longer compatible with modern leadership and good governance.


After ten years, the question remains how government will adapt to greater openness and public scrutiny, and how accountability will evolve for our small community. As the cultural change within government is palatable and the

public sector evolves, a balance may be achieved between the expectations of the public to be engaged, involved and informed, and the willingness and the capacity of government and other public authorities to embrace transparency as a routine practice.

In the midst of the legal enforcement of the PATI Act and the evolution of cultural change, I am deeply proud of the strong integrity institution my colleagues and I have established in the Information Commissioner's Office. It has been an honour to serve the public of Bermuda. Through our collective work, along with the efforts of stakeholders within the public and public authorities, access to public information has become a critical right that supports citizens' voices and accountability, which citizens now expect.

It is not, and will not, be an easy path ahead. Access to information rights are under threat globally and have been weakened locally. In 2024, for example, a constitutional amendment in Mexico shut down that country's independent access to information regulator after twenty years of its existence. The 2024 amendments to the PATI Act threaten to disempower parts of our community and reduce accountability, and the ongoing strength of the ICO is not guaranteed. I encourage my colleagues and stakeholders in the public and public authorities who value public access to information to continue to be brave and stick to the wicket in the years ahead.





“...Thank you to Bermuda’s inaugural Information Commissioner for a decade of unwavering dedication and steadfastness in establishing this vital office. ... The people of Bermuda have been very well served throughout your tenure, and the legacy of your work and vision will continue to benefit us for years to come.”

Victoria Pearman, *former Ombudsman for Bermuda (2014 – 2022)*



Information
Commissioner's
Office



**Maxwell Roberts Building
4th Floor
One Church Street
Hamilton HM11**

**441-543-3700
info@ico.bm
ico.bm**