

ANNUAL
REPORT
2018



“The spirit of transparency is now an enforceable right that belongs to the public. Transparency around public authorities’ spending, decision-making and performance further strengthens accountability to the public in concrete, meaningful ways.”

Information Commissioner’s Welcome
See page 4



2018 HIGHLIGHTS

9

ICO Monthly Roundups issued

See page 17

451

Subscribers receive the ICO's Monthly Roundup by email

See page 17

88%

of public believes that the right to access public records under PATI Act is important

See page 17

100%

of government departments filed their 2018 ICO Annual Return

See page 28

FIRST

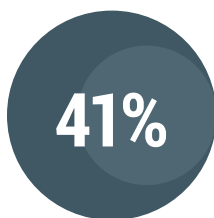
Information Commissioner’s Quarterly Briefing held

See page 18

181

Individuals attended the Information Commissioner’s Quarterly Briefings

See page 18



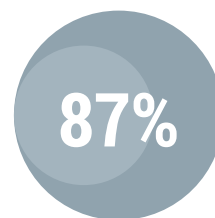
Increase in applications for independent review by the Information Commissioner in 2018

See page 21



The ICO Annual Return process to monitor public authority compliance with the PATI Act

See page 27



Increase in cases closed compared to previous year

See page 23



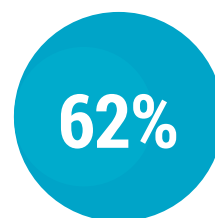
New applications for an independent review by the Information Commissioner

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New PATI requests received by public authorities

See page 30



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

See page 31

“In the midst of advancements in information management and accessibility, and the growing importance of good governance, Bermuda’s PATI Act places the power of accountability in the hands of the public.”

Looking Ahead
See page 40



“With the right to access public information, we are witnessing an even playing field emerge between the public and the public authorities that are making decisions on their behalf.”

Gitanjali S. Gutierrez

Information Commissioner's Welcome



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W E L C O M E

I am pleased to welcome you to the 2018 Annual Report of the Information Commissioner. My report offers an overview of the operation of the Public Access to Information (PATI) Act during 2018. It also highlights the work of the Information Commissioner's Office (ICO) during our 2018-19 fiscal year.

In 2003, public access to information was a good governance aspiration, a right afforded to many outside of Bermuda, but not yet at home. Historically, public authorities in Bermuda had operated behind closed doors simply as a matter of practice and the public had few options for challenging this state of affairs. With

the enactment of the PATI Act, this is no longer the situation.

Through the PATI Act and oversight by the ICO, public access to information in Bermuda is empowering those who seek it, ask for it and choose to use it. The spirit of transparency is now an enforceable right that belongs to the public. Transparency around public authorities' spending, decision-making and performance further strengthens accountability to the public in concrete, meaningful ways. With the right to access public information, we are witnessing an even playing field emerge between the public and the public authorities that are making decisions on their behalf.

The ICO has strengthened its work this year. Our progress provided stakeholders with an understanding of the full mandate of the Information Commissioner, and the role our Office plays in safeguarding the right to access public information. Throughout the year, we have provided guidance, assistance and support to the public and public authorities as they work with the PATI Act.

One of our aims this year was to establish a more systematic approach to the oversight of public authorities: in particular, compliance with the proactive publication requirements of the PATI Act. We developed our new ICO Annual Return which allowed every

public authority the opportunity to report on its compliance with the PATI Act. The results were immediate and placed a great deal more information about Bermuda's public authorities into the public domain. The process also provided us with an opportunity to engage more closely with all public authorities and address their questions about the PATI Act and the work of the ICO. Read pages 27-28 of my report to learn more about this initiative.

Recognising that public authorities' have requested more guidance on applying the PATI Act, we also launched our quarterly Information Commissioner's Briefings for public authorities. Participant feedback indicates that the briefings have been a valued opportunity to learn about the requirements of the Act and gain insights into best practices. For us, the briefings provide the chance to engage with stakeholders outside of compliance, oversight or enforcement.

As our Office expands, we almost doubled the number of cases closed in 2018 compared to last year, with the majority closing in the second half of the year, when our full staffing was in place. We recognise that our previous delays in closing cases has led to frustration for public authorities and risks a loss of confidence by the public in the enforcement of their PATI rights. We have addressed this by converting one of our posts into a second Investigation Officer and shifting more resources into our reviews. We also welcomed the secondment of our Deputy Information Commissioner, which further increased our in-house capacity and provided the added resources needed to reach our goals.

We continued to expand our relationships with our international colleagues this year, including

attending the 11th International Conference of Information Commissioners and hosting a visit from Senior Investigator Elizabeth Dolan from the Ireland Office of the Information Commissioner. We have taken advantage of the learnings and innovations in our sister jurisdictions that have firmly established access to information laws.

Increasingly, the PATI Act has been in the news, referenced by political leaders and influencers, and discussed on social media. We are seeing the public refer to their rights under the PATI Act and calling for the need for transparency. Ultimately, the public's exercise of the right to know is as neutral and critical as the right to vote. The public now knows that it has the right to ask!

Our Office will continue to safeguard access to public information and uphold the requirements of the PATI Act. This includes requiring public authorities to provide access to information when appropriate, and providing assurances to the public when information is properly withheld under the provisions of the Act.

Again, this year, I thank Junior Watts, our Investigation Consultant, and our team of five dedicated officers who support the mandate of this Office on a daily basis. Their skills, insights, contributions and courage make the work and success of the ICO possible. Together, we will continue to be a value adding institution for both the public and public authorities and we welcome the increased engagement with our stakeholders.

Gitanjali S. Gutierrez
Information Commissioner



THE INFORMATION COMMISSIONER'S OFFICE

MANDATE

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

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

- Raising awareness of the rights under the Act and how to use them;
- Providing general guidance to public authorities about their responsibilities under the Act;
- Overseeing and enforcing compliance with the PATI Act; and
- Conducting independent reviews of public authorities' handling of PATI requests and issuing legally-

binding decisions for cases that are not settled.

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

MISSION

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

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

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



“I thoroughly enjoyed the opportunity to heighten my awareness of and appreciation for the importance of the role of the [ICO] and learn more about how I can be a better Information Officer on behalf of the Authorities I represent.”

Information Officer comment from Information Commissioner's Briefing



From left to right: Tikitta Suhartono,
E. Angie Farquharson, Gitanjali S. Gutierrez,
Caitlin Conyers, Sheena Bassett, and Answer Styannes
(not pictured: Junior Watts, Investigation Consultant)

2018

APRIL

Information Commissioner attends Personal Information Protection Act (PIPA) Policies & Procedures Workshop by Bermuda Human Resources Association

MAY

Information Commissioner attends Bermuda Compliance Professionals Conference

JUNE

2016 Information Commissioner's Annual Report tabled

Information Commissioner and Investigation Officer attend conference on Fiftieth Anniversary of Bermuda Constitution: Reflections on its Past and Future, sponsored by the Centre for Justice

Information Commissioner and incoming Deputy Information Commissioner attend Access & Privacy Oversight: Challenges & Opportunities for Small Jurisdictions Conference in Halifax, Nova Scotia

JULY

2017 Information Commissioner's Annual Report tabled

Office of the Information Commissioner Audited Financial Statement for Year Ending March 31, 2017 published

First Information Commissioner's Quarterly Briefing held

ICO officers attend Procurement Code of Practice Training with Office of Project Management & Procurement

ICO hosts week-long intern from the Centre for Justice

AUGUST

New ICO Guidance Published: Operations of public authorities exemptions (section 30)

Caitlin Conyers joins the ICO as an Investigation Officer

Sheena Bassett moves into Project Officer position

SEPTEMBER

E. Angie Farquharson joins the ICO on secondment as Deputy Information Commissioner (Governance & Compliance)

Information Commissioner's Quarterly Briefing held

Information Commissioner, Panelist for blockchain technology session for CPA Bermuda Women's Leadership Conference

International Right to Know Day, ICO Reception for Information Officers



OUR TEAM

Gitanjali S. Gutierrez

Information Commissioner for Bermuda

E. Angie Farquharson

Deputy Information Commissioner
(Governance and Compliance)

Answer Styannes

Investigation Officer

Caitlin Conyers

Investigation Officer

Sheena Bassett

Project Officer

Tikitta Suhartono

Office Manager

OUR 2018 TIMELINE

2019

OCTOBER

Information Commissioner, Investigation Officer and Office Manager attend Data Privacy Training Course for Public Sector by KPMG

Presentation to St. George's Parish Council on the PATI Act

NOVEMBER

Deputy Information Commissioner and Project Officer attend PATI training by Government's Policy & Strategy Section

ICO Annual Returns distributed to public authorities

DECEMBER

Information Commissioner's Quarterly Briefing held

ICO team attends Designed for Impact Conference

JANUARY

Presentation to Department of Internal Audit for Business Acumen Series

Presentation to Bermuda Health Council's Board of Directors on the PATI Act and Board Responsibilities

Presentation to the Royal Gazette on the PATI Act and Media

FEBRUARY

Presentation to the Bermuda Bar Association on Recent Information Commissioner's Decisions

Senior Investigator Elizabeth Dolan, Ireland Information Commissioner's Office, visits Bermuda ICO

Presentation for St. George's Parish Council Annual General Meeting

MARCH

Presentation to the Media Council on The PATI Act and Media

Information Commissioner's Quarterly Briefing held

Information Commissioner, Panelist for ASW Law's International Women's Day Panel

Information Commissioner, Deputy Information Commissioner and Investigation Officer attend 11th International Conference of Information Commissioners

ICO Mediation Training with Stitt Feld Handy Group

Centre for Law and Democracy releases Analysis of the PATI Act



THE PUBLIC ACCESS TO INFORMATION ACT 2010

The Public Access to Information (PATI) Act 2010 affords Bermudians and residents of Bermuda access to records held by public authorities, subject to the provisions of the law. Section 2 of the Act lays out its purposes to:

- Give the public the right to access public information to the greatest extent possible, while remaining consistent with the reasons listed in the PATI Act that allow a public authority to refuse access;
- Increase transparency and eliminate unnecessary secrecy with public information;

- Increase the accountability of Bermuda's public authorities;
- Inform the public about public authorities' activities, including how and why decisions are made; and
- Routinely place more information in the public domain.

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

Right of access

Right To Access Records – Section 12

A 'record' under the PATI Act includes information that is recorded in any format. The record could be paper documents, tapes or film, or electronic files. Examples of public records include paper and electronic copies of memos, letters, assessments or any written document; maps and diagrams; photographs, film, microfilm, videotape, sound recordings and emails.

Every Bermudian and resident of Bermuda has the right to access records held by a public authority, unless the record falls within an

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

'exemption' or one of the grounds for an administrative denial listed in the Act. If only some of the information in a record is exempt, the public authority may need to provide access to the other parts.

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

- Keep the requester's identity confidential;
- Assist an individual who is making a PATI request; and
- Provide a complete, accurate and timely response to the PATI request.

Right To A Decision On The PATI Request – Section 14

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

- State whether access will be granted or denied for all or part of the record;
- Explain the reasons why, including the relevant facts or arguments and any public interest factors considered; and
- Inform the PATI requester of the rights to appeal and internal review of the decision.

Right To Seek Internal Review – Section 41

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

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

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

Right To An Independent Review By The Information Commissioner – Section 45

If a requester is still not satisfied with the internal review decision or does not receive a decision within six weeks, they have the right to an

independent review by the Information Commissioner. Unless the application for review is resolved to the requester's satisfaction and the requester chooses to withdraw the application, the Information Commissioner must carry out an independent review and issue a legally binding decision.

If required, the Information Commissioner will enforce her decision to safeguard the public's rights under the PATI Act.

Right To Seek Judicial Review Of The Information Commissioner's Decision – Section 49

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

There are no fees for making a PATI request, receiving electronic copies of records, seeking an internal review by the head of the public authority or receiving an independent review by the Information Commissioner. There may be fees to receive hard copies of records.

THE PUBLIC ACCESS TO INFORMATION ACT 2010

Right to request to amend records of personal information

Right To Amend Or Correct Personal Information – Section 19

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

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

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

Proactive publication

Certain categories of information must be published by public authorities (or be readily available to the public without a PATI request). This is called proactive publication. It allows the public to obtain basic information about the authorities, without having to go through the process of making a PATI request.

Information Statement – Section 5

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

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

Log of Access Requests – Section 6

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

Quarterly Expenditures – Section 6

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

Contracts With a Total Value Of \$50,000 or More – Section 6

Public authorities must publish in the Official Gazette details of all of their contracts for goods or services with a total value of \$50,000 or more for the duration of the contract. Public authorities should review and publish this information on a 'regular basis'.

Salary Range Of Every Public Officer Position – Section 6

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



“I cannot thank you enough
for what you have accomplished and,
as expressed in our earlier conversation,
I am more than a little stunned by the outcome.”

Applicant



HOW TO MAKE A PATI REQUEST

1

WHERE TO START

Decide what records you want.

Think about the information you are looking for.

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

Figure out which public authority has it.

Identify the public authority that you think has the records you want.

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

Make your request to the public authority.

The PATI Act requires that public authorities have an Information Officer who is responsible for processing your request.

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

2

WHAT TO INCLUDE IN YOUR REQUEST

Put it in writing. Your PATI request to the public authority must be in writing.

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

A sufficient description of the records.

The public authority must be able to figure out what you are looking for.

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

Say how you want to receive the information.

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

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

3

WHAT IF THE PUBLIC AUTHORITY DENIES YOUR REQUEST?

Decide if you agree with its reasons.

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

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

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



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



WHAT WE DO

STRENGTHENING THE RIGHT

Raising awareness

(1 April 2018 – 31 March 2019)

EDUCATION PROGRAMMES

We continue to provide education programmes to community and professional organisations to raise public awareness of the rights under the PATI Act and how to use them. Highlights of this year's programmes include:

CPA Bermuda Women's Leadership Conference: Blockchain Technology Panel

Information Commissioner Gutierrez participated on a panel discussion on blockchain technology. She highlighted

the potential for blockchain technology to decentralize public information. This new technology could facilitate the public's direct access to public records, including public spending records.

Public Access to Information Presentations

We provided a PATI presentation in the fall to the St. George's Parish Council and later provided a follow-up presentation in the winter as part of the St. George's Parish Council's Annual General Meeting for the public. We also delivered a presentation and workshop on the PATI Act for the Royal Gazette and the Media Council, as well as a presentation about considerations

raised by the PATI Act for the Bermuda Health Council's Board of Directors.

Internal Audit Business Acumen Series

We delivered a presentation to the Government of Bermuda's Internal Audit Department on the mandate of the ICO, the accountability measures for our Office and the processes the ICO has in place for monitoring and enforcing compliance with the PATI Act.

Bermuda Bar Association

We shared an update on the Information Commissioner's recent Decisions with the Bermuda Bar Association.

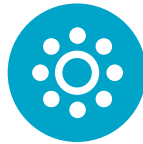
WHAT WE DO

STRENGTHENING THE RIGHT

Online resources

The Information Commissioner's Office's website remains a key element of our education and outreach. Our website includes our Monthly Roundups, information about how to use the rights under the PATI Act and the Information Commissioner's Decisions. This year, we updated the format of our listing of Bermuda's public authorities and their Information Statements to provide a more user-friendly layout.

Approximately 86% of the users of our website this year were new users, a slight increase over last year's 83%.



9 Monthly Roundups issued in 2018



Published online at www.ico.bm



Sent by email to 451 subscribers

Monitoring public awareness

Our annual public awareness survey measures changes in public awareness about the PATI Act and the rights it creates. It also helps us decide where to focus our education efforts in the upcoming year.

Our research shows that residents continue to believe that the right to access public records under the PATI Act is important to them: 88% in March 2019 and 87% in March 2018. Importantly, we have continued to see high levels of public awareness about the PATI Act. In our March 2019 survey, 82% of the participants had heard of the PATI Act, compared to 77% in 2018.

Up from last year, 80% of the survey participants believed that creating and enforcing the PATI Act is an important public investment (compared to 76% in March 2018).

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

"Your presentation was very helpful and informative."

Comment from Information Commissioner's Briefing attendee



WHAT WE DO

STRENGTHENING THE RIGHT

Enquiries

(1 April 2018 – 31 March 2019)

We regularly respond to enquiries from the public or public authorities about how the PATI Act works. This reporting period, we logged over 80 emails, phone calls and visitors asking a wide range of questions about the PATI Act.

Providing guidance

(1 April 2018 – 31 March 2019)

INFORMATION COMMISSIONER'S QUARTERLY BRIEFINGS

In July, we successfully launched our first Information Commissioner's Quarterly Briefing for public authorities.

We held briefings again in September and December 2018 and March 2019.

The Briefings provide opportunities for public authorities to learn about recent decisions, lessons from resolved cases, insights from trends the ICO has observed and best practice recommendations.

This year our topics included:

- A public authority's duty to assist a requester;
- The requirements for conducting a reasonable search;
- Administrative denials due to burdensome requests and strategies for managing the general administrative

burden of PATI requests;

- The importance of records management to facilitate access to information;
- Applying the exemption in section 23 for personal information;
- Applying the exemption in section 37 when disclosure is prohibited by other legislation; and
- The purpose and requirements of the new ICO Annual Return.

Participants included staff from Government Departments, quangos, statutory boards and Parish Councils. In total, 181 participants from 78 public authorities attended the Briefings.

Participant feedback was very positive, and included the following comments:

"Very professional and efficient use of time"

"Very informative, afforded me the opportunity to network with other participants"

"Great suggestions and tips to assist us serving the public"

"The briefings are an excellent idea and should be continued"

"Another excellent briefing, keep up the good work"

"What could be dry and technical exercise made very interesting - broken into small manageable chunks"

"Very detailed and extremely helpful and informative"

"Thank you, 1st briefing, and formal exposure to the PATI Act. I am informed and empowered"

"The clear desire to support our learning"

"I found the information useful in understanding the role of the ICO and the reporting requirements"



The slides and presenters' notes from all of the Information Commissioner's Briefings are available at www.ico.bm under our ICO Guidances and Publications.

WHAT WE DO

STRENGTHENING THE RIGHT

ICO guidances

Our ICO Guidance series on exemptions and key provisions of the PATI Act assists public authorities in understanding how to apply the exemption provisions and other key parts of the PATI Act. In 2018, we published new guidance entitled ICO Guidance: Operations of public authorities (section 30).

The ICO Guidance series is available at www.ico.bm.

“I had at that time reviewed the guidance notes which I thought were very helpful...”

Applicant

“The PATI Act is a phenomenal tool that provides guidance on the level of transparency that is appropriate within public authorities. It also provides encouragement that ultimately we are accountable to the public and should openly share information as appropriate.”

Public Authority Staff Member

“As someone who has never made a PATI request before, the information about the process was very useful.”

Applicant





WHAT WE DO

ENFORCING THE RIGHT

Reviews and decisions

(1 January 2018 –
31 December 2018)

INDEPENDENT REVIEW BY THE INFORMATION COMMISSIONER

An application for an independent
review by the Information

Commissioner may progress
through four stages: validation, early
resolution, investigation, and decision.

You can learn more about each of
these stages in our Reviews Policy and
Handbook, available at www.ico.bm.

Any requester who is not
satisfied with a public
authority's response to their
PATI request has the right to
an independent review by the
Information Commissioner.

4 STAGES OF AN INDEPENDANT REVIEW



VALIDATION

The ICO ensures that the
application meets the
requirements of the Act and
confirms what the requester
wants the Information
Commissioner to review.



EARLY RESOLUTION

If submissions are not
required, the ICO may
suggest the parties attempt
early resolution of a case.
Resolution may continue to
be considered throughout
the case until the
Information Commissioner
issues a Decision Notice.



INVESTIGATION

The ICO will inspect any
withheld records and
assess the public authority's
reasons for not disclosing
them.



DECISION

If the case is not resolved, the
Information Commissioner
will issue a legally binding
Decision Notice and, if
necessary, will take steps
to enforce the decision on
behalf of the public.

WHAT WE DO

ENFORCING THE RIGHT

Our 2018 cases

New applications received

In 2018, the ICO received 31 new applications for an independent review by the Information Commissioner. This is a 41% increase in the applications we received in 2017.

Our total caseload for 2018

In 2018, the ICO carried over 36 open cases from previous years. This brought the number of cases in 2018 to 67 applications.

The statistics in this section include corrections to the statistics published in previous Annual Reports.

Our Caseload	2015	2016	2017	2018
Cases brought forward from previous years	0	7	30	36
New cases	11	32	22	31
Total Caseload	11	39	52	67

Validation of new cases

The Information Commissioner can only consider applications for review that meet the requirements of the PATI Act.

There has been a steady increase in the number of invalid applications, from 6% of the applications in 2016 up to 25% in 2018. Four of the 2018 invalid applications were from individuals who were making their first applications

to the Information Commissioner and applied too early. We explained to these individuals how to make a valid application in the future.

	2015		2016		2017		2018	
Proportions Of New Valid Applications	#	%	#	%	#	%	#	%
Valid	8	73	30	94	18	82	21	75
Invalid	3	27	2	6	4	18	7	25
Total	11	100	32	100	22	100	28*	100

* Three applications received in 2018 were deemed abandoned before the applications were validated.

WHAT WE DO

ENFORCING THE RIGHT

Reasons People Asked for a Review by the Information Commissioner

People asked the Information Commissioner for an independent review for a variety of reasons this year. The number of cases addressing a public authority's failure to respond to a PATI request was back on the rise in 2018, after a decline in the previous year.

For the first time, the Information Commissioner received two cases where the public authorities argued that certain records asked for were outside the scope of the PATI Act's application (Section 4).

The majority of our reviews continue to involve public authorities' reliance on exemptions to deny access to records. As indicated below, no one exemption was relied upon noticeably more often than others.

Public authorities can refuse a PATI request if the records falls within an 'exemption' in the Act. An exemption is one of the specific reasons listed in the PATI Act that allows a public authority to deny access, such as someone else's personal information or Cabinet records.

Exemptions Challenged In New Cases	2015	2016	2017	2018
s.22 Health or safety	1	0	1	0
s.23 Personal information	2	3	4	2
s.25 Commercial information	2	4	9	1
s.26 Information received in confidence	1	9	4	3
s.27 Cabinet documents	1	0	0	2
s.28 Ministerial responsibility	0	2	0	1
s.29 Deliberations of public authorities	1	3	4	1
s.30 Operations of public authorities	2	3	3	0
s.32 National security, defence and international relations	0	0	1	0
s.33 Governor's responsibilities	0	0	1	0
s.34 Law enforcement	0	0	3	4
s.35 Legal professional privilege	0	1	0	2
s.37 Disclosure prohibited by other legislation	0	2	3	2
Total	10	27	33	18

WHAT WE DO

ENFORCING THE RIGHT

The number of cases received by the Information Commissioner which involved administrative denials dropped by over 50% in 2018 compared to the previous year. In all four cases involving administrative denials,

public authorities denied access to records because the responsive records could not be found or did not exist (section 16(1)(a)).

Public authorities can also refuse a PATI request for one of the listed administrative reasons, such as when another law requires publication of the information within three months of a request.

Administrative Denials And Other Issues Challenged In New Cases	2015	2016	2017	2018
s.4 Inapplicability of PATI Act	0	0	0	2
Failure to decide	3	6	3	9
s.16 Administrative denial	1	10	9	4
Fees charged	0	0	0	0
Reasonableness of search	3	9	2	6
Other (e.g., manner of access given, insufficient assistance provided, etc.)	1	6	3	1
Total	8	31	17	22

Our Outcomes

Of the 67 open cases, the ICO closed 42%, or 28 cases in 2018.

Cases 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, an early resolution was attempted and successful, or the cases were abandoned or withdrawn. Three cases received in 2018 were deemed to be abandoned before the ICO was able to validate the applications.

Applications Closed In Early Stages	2015	2016	2017	2018
Reason for closure				
Invalid	3	2	4	7
Early resolution	0	0	0	0
Abandoned/Withdrawn	0	1	0	3
Total	3	3	4	10

WHAT WE DO

ENFORCING THE RIGHT

Applications closed during investigation

Valid applications do not always result in a decision by the Information Commissioner. During the Information

Commissioner's review, if the parties engage in a facilitated resolution and are able to settle the issues without compromising the public's right to access information, the applicant may ask the Information Commissioner to

accept a withdrawal of the application.

In 2018, the Information Commissioner successfully resolved five cases by way of facilitated resolution.

Applications Closed During Investigation	2015	2016	2017	2018
Reason for closure				
Resolved	1	1	3	5
Abandoned/Withdrawn (other)	0	1	3	0
Total	1	2	6	5

"I appreciate all your hard work and the work of your colleagues. I have no doubt, that without your dedication, none of the requested records would have been released."

Applicant



WHAT WE DO

ENFORCING THE RIGHT

Information Commissioner's 2018 Decisions

The number of decisions issued by the Information Commissioner is

noticeably higher in 2018 compared to previous years: a 160% increase. Of the 13 decisions issued, the Information Commissioner decided 10 of them for the applicant, including 4 failure to

decide cases. The remaining decisions partially upheld the public authority's decision.

Decision Outcome	2015	2016	2017	2018
For applicant	0	5	2	10
For public authority	0	0	2	0
Partially upheld	0	0	1	3
Total	0	5	5	13

Significant decisions in 2018 included:

- Decision 03/2018, where the Information Commissioner rejected a claim that it was too burdensome to process a request. The Information Commissioner established the criteria for an administrative denial of a PATI request when processing the request would create a substantial and unreasonable burden on the work of the public authority.
- Decision 04/2018 that provided the requirements of a public authority's duty to assist requesters in connection with their PATI request.

- Decision 13/2018, where the Information Commissioner upheld the denial of access to payroll tax records because they fell within the exemption in section 37 that applies when disclosure is prohibited by other legislation. The Information Commissioner also ordered disclosure of social insurance contributions and land tax owed by Sandys 360 because it did not fall within the exemption in section 37. This information had been withheld as a matter of longstanding policy, and not because of a statutory prohibition on disclosure.

Decisions Taken To Judicial Review

In 2018, one decision by the Information Commissioner, Decision 02/2018, was taken to judicial review by the Applicant. The case is still pending before the Supreme Court.

"I must say that to date, I am impressed by your courtesy & efficiency in this matter... My compliment to you was totally called for."

Applicant

WHAT WE DO

ENFORCING THE RIGHT

Compliance oversight

(1 April 2018 – 31 March 2019)

Our aim in 2018 was to implement more systematic oversight of the requirements of the PATI Act beyond public authorities' obligation to respond to PATI requests. We accomplished this important goal through the efforts of our expanded Compliance section.

COMPLIANCE WITH THE PATI ACT AND GOOD GOVERNANCE

The origins of the PATI Act began in 1998, when the Government of the day promised that Bermuda would be a place "where government operates in the sunshine of public scrutiny". In its subsequent discussion paper on public access to information in 2005, the Government proposed an access to information framework that would produce "justice, equity, transparency and accountability in the conduct of public business".

As with all new regulatory and rights regimes, an effective compliance process is crucial for promoting and ensuring best practices. To support its desire for more transparency and accountability, the Bermuda Government established the Information Commissioner as a critical oversight institution within

the PATI framework. The Information Commissioner ensures that PATI requesters have an enforceable right to request information on matters such as decision-making, spending and public programmes.

The Information Commissioner's mandate also extends to ensuring that public authorities comply with other good governance measures introduced by the PATI Act. These include the important proactive publication requirements in Part 2 of the Act. The ICO's increased compliance efforts this year ensure that more and more public information is now accessible and readily available to the public, without the need for making a PATI request.

PROACTIVE PUBLICATION

The PATI Act requires public authorities to take steps to promote transparency and openness about their activities as a matter of routine. This includes publishing an Information Statement, maintaining a public PATI request log (without any requesters' names), having quarterly expenditures readily available for the public and gazetting all of its contracts with a total value of \$50,000 or more. These requirements have been in force since the PATI Act came into effect on 1 April 2015.

An 'Information Statement' is the public document that details the types of records held by a public authority, and provides its organisational chart, name and contact details of its Information Officer, a list of its decision-making and administrative manuals and more. The PATI Act requires every public authority to have an Information Statement and to update it at least yearly.

WHAT WE DO

ENFORCING THE RIGHT

PUBLIC AUTHORITIES' PATI STATISTICS

Public authorities must also submit their annual PATI statistics to the Information Commissioner for inclusion in her annual report. The Information Commissioner's 2015 Annual Report shared outcomes for the PATI requests during the first ten months of the law being in force. The Information Commissioner's subsequent reports have continued to share this data. The PATI statistics provide the public and public authorities with an overview of the handling of all PATI requests.

THE NEW ICO ANNUAL RETURN

In 2018, the Information Commissioner introduced the new ICO Annual Return with support from the ICO's expanded Compliance section. Public authorities were required to inform the ICO of the status of their compliance with the proactive publication requirements in Part 2 of the Act and the provision of their PATI statistics.

The ICO Annual Return now enables the Information Commissioner to systematically and fairly monitor all public authorities' compliance with the full requirements of the PATI Act.

It allows the Information Commissioner to provide guidance, when needed, to a public authority to bring itself into compliance with the PATI Act. If noncompliance persists, the Information Commissioner will use her statutory authority to enforce compliance.

THE 2018 ICO ANNUAL RETURN OUTCOMES

The ICO formally introduced its Annual Return to public authorities in our October 2018 Monthly Roundup, following informal discussions with a number of key stakeholders. We continued to educate public authorities about this new tool through publications, our December 2018 Quarterly Briefing, and one-on-one discussions and email. The 2018 Annual Return was distributed to public authorities in November 2018. Notably, the ICO for the first time included executive and senior managers in its outreach to ensure that individuals in senior positions within public authorities were fully informed of their organisation's obligations under the PATI Act.

During December 2018 and into the beginning months of 2019, the impact was immediately noticeable. Numerous public authorities gazetted the details of their contracts with a total value of \$50,000 or more and updated their Information Statements. The Government's new electronic Official Gazette (and the availability of paper copies of the Official Gazette

at the National Library and Archives) ensures that this information is easily accessible to the public.

Going the Extra Mile

The ICO Annual Return also asked public authorities to share anything they have done to make their information more accessible to the public.

Seventeen public authorities described types of information they make available to the public either through their website and offices, or upon request. This includes making available reports (including annual reports), publications, meeting minutes, newsletters, financial statements, PATI guidance notes, registries of interest, decision notices and meeting dates. Several public authorities also described their activities, such as education sessions, to assist the public in understanding the public authority's processes. Publishing and the reporting of these types of public information contribute to increasing the transparency and accountability of Bermuda's public authorities.

WHAT WE DO

ENFORCING THE RIGHT

Excellent Progress

The responses to the introduction of the new ICO Annual Return were very favourable for a new regulatory initiative. We are proud to report that 99% of the public authorities that received the 2018 forms from the ICO completed and filed their 2018 Annual Return. Importantly, 100% of Government of Bermuda Departments submitted their returns.

The ICO thanks the Head of Public Service, Permanent Secretaries, Board and Committee chairpersons, Heads of Departments, Chief Executive Officers of quangos, other senior management, and Information Officers who all contributed to this achievement. The ICO is appreciative of their efforts, which furthered the aim of the PATI Act to make information readily available to the public.

Beginning with this Annual Report, the Information Commissioner also has identified those public authorities that have failed to submit their annual PATI statistics to the Information Commissioner, as required under the PATI Act. Further details are provided in the next section on Public Authorities' Statistics.

2018 ICO Annual Returns	Number Of Public Authorities	% Of Total Number
Timely submissions	109	55
Late submissions	77	39
Failed to submit	2	2
Under review	9	4
Total	197	100



2018 PUBLIC AUTHORITIES' STATISTICS

(1 JANUARY 2018 – 31 DECEMBER 2018)

Since 1 April 2015, section 58(3) of the PATI Act has required public authorities to report their annual statistics to the Information Commissioner for publication. With the expansion of the ICO's Compliance Section this year,

the ICO increased its efforts to close the gap in public authorities' reporting of statistics for 2015-2017, and to achieve better reporting results with the new ICO Annual Return in 2018. As a result, our 2018 Annual Report

includes updated statistics from 2015-2017, along with a list of the public authorities that did not comply with the requirement in section 58(3) to submit their PATI statistics for any of the 2015-2018 reporting periods.

2018 Public Authorities' Statistics	Number Of Public Authorities	% Of Total Number
Received PATI requests	43	22
Did not receive any PATI requests	144	73
No statistical information provided	10	5
Total	197	100

2018 PUBLIC AUTHORITIES' STATISTICS

Noncompliance with Section 58(3) Reporting

While the Information Commissioner has enforcement authority concerning other requirements with the PATI Act, the Information Commissioner lacks such order making power to compel compliance with the requirement in section 58(3) of the Act for public authorities to submit their PATI statistics for the Information Commissioner's Annual Report. After unsuccessful efforts to encourage compliance with section 58(3) since 2015, the Information Commissioner notified the public authorities below that they would

be listed in the 2018 Information Commissioner's Annual Report as noncompliant with section 58(3) of the PATI Act for the years indicated. We recognise that some public authorities have not yet institutionalized the management of their records and have new leadership in 2018. For some of them, this has resulted in the 2018 heads of authority stating that they have no access to historical records and the corresponding inability to submit outstanding returns from 2015-2017. No reasons were provided for noncompliance with section 58(3) for the current 2018 PATI statistics.

Outstanding Historical PATI Statistics

The PATI statistics remain outstanding for the following public authorities for the years indicated:

2015

Financial Assistance Review Board
Smith's Parish Council

2016

Financial Assistance Review Board

2017

Financial Assistance Review Board
Hamilton Parish Council
Smith's Parish Council

Outstanding 2018 PATI Statistics

Legal Aid Committee
Southampton Parish Council

2018 PATI Requests

The total number of new reported PATI requests was 133 for 2018. The public authorities with the highest number of new 2018 requests reported to the

ICO were the Bermuda Police Service (44 requests) and the Ministry of Legal Affairs Headquarters (with 9 requests).

The Government of Bermuda Ministry with the highest number of reported

requests (excluding the Bermuda Police Service) was the Ministry of Legal Affairs, with 18 requests received by its departments.

Total PATI Requests	2015	2016	2017	2018
Reported new requests	125	145	143	133
Reported requests carried over from prior year	N/A	24	10	11
Total Requests In Processing For Year	125	169	153	144

2018 PUBLIC AUTHORITIES' STATISTICS

Individuals made 133 new PATI requests for access to records under Section 13 of the PATI Act. Another 11 PATI requests for records were reported as pending at the end of 2017 and were carried over to 2018.

New PATI Requests for Records (s.13)	2015	2016	2017	2018
Total Number	124	143	143	144

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

Initial Disposition Of PATI Requests (as at year end)	2015	2016	2017	2018
Pending	23	9	10	6
Access granted in whole	45	65	56	59
Access granted in part	17	27	15	22
Access refused in whole	31	54	54	49
Unknown	8	11	18	7

In 2018, public authorities reported receiving 0 new requests under Section 19 of the PATI Act to amend a record of personal information.

New PATI Requests To Amend Record Of Personal Information In Record (s. 19)	2015	2016	2017	2018
Total Number	1	2	0	0

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

Disposition Of Requests To Amend Personal Information In Record	2015	2016	2017	2018
Pending	1	0	0	0
Request granted	0	1	0	0
Request denied	0	2	0	0

2018 PUBLIC AUTHORITIES' STATISTICS

Public authorities are also required to report on the number of times they invoke exemptions to deny access to records in the initial response to a PATI request. Public authorities' reports also include the number of

administrative denials they issued. In 2018, these reports indicated that public authorities most commonly invoked the exemptions for commercial information and for when disclosure is prohibited by legislation other than

the PATI Act. Noticeably, administrative denials were on the rise in public authorities' initial response to PATI requests. In particular, public authorities relied on the administrative denial when records do not exist or cannot be found.

Reasons For Refusal In Initial Decision		2015	2016	2017	2018
s.4	Record not within scope of PATI Act	0	0	0	2
s.16 (1)(a)	Administrative refusal because record does not exist or cannot be found	19	32	20	30
s.16 (1)(b)	Administrative refusal because insufficient information in request	3	1	7	4
s.16 (1)(c)	Administrative refusal because request would cause substantial and unreasonable interference or disruption	0	6	4	2
s.16 (1)(d)	Administrative refusal because publication of information is required by law within 3 months	2	1	0	0
s.16 (1)(e)	Administrative refusal for vexatious request	0	0	0	2
s.16 (1)(f)	Administrative refusal because information is already in public domain	5	3	4	2
s.16 (1)(g)	Administrative refusal because fee payable under section 20 not paid	0	1	0	2
s.22	Health or safety	2	0	0	0
s.23	Personal information	7	11	13	9
s.25	Commercial information	2	12	7	11
s.26	Information received in confidence	6	12	3	3
s.27	Cabinet documents	0	1	1	2
s.28	Ministerial responsibility	0	4	0	0
s.29	Deliberations of public authorities	2	6	4	2
s.30	Operations of public authorities	4	10	1	3
s.31	Financial and economic interests	0	0	0	1
s.32	National security, defence and international relations	0	2	1	0
s.33	Governor's responsibilities	0	0	1	1
s.34	Law enforcement	5	3	5	4
s.35	Legal professional privilege	2	2	2	5
s.37	Disclosure prohibited by other legislation	2	3	10	9
s.38	Non-disclosure of existence of a record	1	2	0	1
	Failure to decide	0	2	1	1

2018 PUBLIC AUTHORITIES' STATISTICS

Public authorities reported that individuals sought internal reviews 17 times in 2018. The majority of the internal review decisions denied access to the records, as shown below.

Dispositions Of Internal Reviews	2015	2016	2017	2018
Pending	2	3	3	3
Grant access in whole	2	2	1	1
Grant access in part	0	4	1	1
Refuse in whole*	9	18	9	12
Procedural issues**	0	2	0	0
Referred to Commissioner	0	3	11	0
Total Reported Internal Review Decisions	13	32	25	17

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

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

“My initial view of the [ICO] has changed now that I have actually corresponded with them on a few investigations. I have also enjoyed working with the staff who have been very accommodating and willing to work with you to resolve matters.”

Information Officer

2018 PUBLIC AUTHORITIES' STATISTICS

The public authorities' internal review decisions that denied access to records relied more heavily in 2018 on exemptions, as shown below.

Reason For Refusal In Internal Review Decision		2015	2016	2017	2018
s.4	Records not within scope of PATI Act	0	0	0	1
s.16 (1)(a)	Administrative refusal because record does not exist or cannot be found	1	4	2	1
s.16 (1)(c)	Administrative refusal because request would cause substantial and unreasonable interference or disruption	0	5	0	0
s.16 (1)(d)	Administrative refusal because publication of information is required by law within 3 months	0	1	0	0
s.16 (1)(e)	Vexatious request	0	0	1	1
s.16 (1)(f)	Administrative refusal because information is already in public domain	1	0	0	0
s.23	Personal information	2	3	4	1
s.25	Commercial information	1	2	5	1
s.26	Information received in confidence	1	6	3	1
s.27	Cabinet documents	1	0	0	1
s.28	Ministerial responsibility	0	0	0	1
s.29	Deliberations of public authorities	0	2	2	1
s.30	Operations of public authorities	2	3	2	0
s.32	National security, defence and international relations	0	0	1	0
s.33	Governor's responsibilities	0	0	1	1
s.34	Law enforcement	0	0	1	4
s.35	Legal professional privilege	0	0	0	2
s.37	Disclosure prohibited by other legislation	0	2	0	2
	Failure to decide	0	6	1	5
	Request for internal review out of time	0	1	0	0



IMPROVING ACCESS TO INFORMATION

The Information Commissioner seeks to improve access to information for the people of Bermuda in a manner consistent with best practices in the international community. Currently, three advances could greatly strengthen public access to information and the public's information rights. These are:

1. ANONYMOUS REQUESTS AND UNIVERSAL ACCESS

Some members of the community continue to be fearful of making PATI requests because of the inability to submit a PATI request anonymously,

through the use of a pseudonym. These potential requesters may fear retaliation or other negative consequences from submitting PATI requests with public authorities. The ICO continues to observe public authorities' challenges in maintaining the confidentiality of PATI requesters.

This shortcoming in the PATI Act places obstacles in the way of individuals in the community who want to ask about education, transportation, safety and crime, job creation, children's services, health and numerous other community concerns.

For the fourth year, the Information Commissioner urges the Government to strengthen the Bermuda public's right to access information by allowing for the filing of anonymous PATI requests.

IMPROVING ACCESS TO INFORMATION

2. THE MINISTER'S CODES OF PRACTICE ON THE ADMINISTRATION OF THE PATI ACT AND ON RECORDS MANAGEMENT

The response to the Information Commissioner's Quarterly Briefings for public authorities has made one thing clear: individuals within the public authorities seek resources to understand, continually improve and support their PATI practices. The Information Commissioner also recognises the Cabinet Office's Policy and Strategy Section for restarting the formal training sessions in 2018 for Information Officers, which has been welcomed and appreciated by public authorities.

Four years after the PATI Act has gone into effect, public authorities are increasingly in need of support to respond to PATI requests and other PATI obligations. Key to this support are the practice codes. The practice codes are intended to provide practical, how-to advice for individuals in public authorities. Section 60 of the PATI Act requires the Minister for the PATI Act to issue two practice codes to support the ability of public authorities to meet their obligations under the Act: a practice code on the administration of the Act and a practice code on records management that facilitates ready access to the records. The Information Commissioner provided substantive comments in January and September 2018 on the administrative practice code.

For the practical benefit of public authorities who seek assistance and support, the Information Commissioner encourages the Minister to issue the practice code on the administration of the Act.

The Minister's practice code on records management is critical to support the public's access to information. The Personal Information Protection Act 2016 is also potentially going into effect in the near future, making improvements in records management practices increasingly urgent. With the growing pressures related to the protection, management and accessibility of public records, the Information Commissioner encourages the Minister to issue the practice code on records maintenance and management for the benefit of the public and public authorities.

Ultimately, comprehensive records and information management plans and practices can help public authorities appropriately create, manage, store and destroy records. Having these plans in place improves efficiencies for public authorities and facilitates public access to public records. The Minister's practice code on records management is a key factor in improved management of public records.

3. PERSONAL INFORMATION PROTECTION ACT (PIPA)

The Personal Information Protection Act 2016 (PIPA) will provide robust safeguards for the collection, storage, handling and sharing of personal information. Together, public access to information and the privacy rights enshrined in PIPA provide the core foundations for a comprehensive information rights framework. With the recruitment process ongoing for a new Privacy Commissioner, the Information Commissioner congratulates the Government of Bermuda on its progress in moving closer to the appointment of a Privacy Commissioner and, ultimately, closer to bringing PIPA fully into force.



STRENGTHENING THE ORGANISATION

EXPANDED ICO TEAM

In the latter half of 2018, the ICO benefited from an expanded Compliance section and an additional Investigation Officer. The impact on our output was immediate. These additional positions have helped close gaps in the ICO's performance and supports the Information Commissioner's mandate. With a small Compliance section in place, the ICO was able to implement its ICO Annual Return process (see pages 27-28 for more detail on this). This Return established more systematic

oversight of the various requirements of the PATI Act that enhance good governance. This level of oversight by the Information Commissioner has not been possible in the past. The secondment of a Deputy Information Commissioner (Governance and Compliance) to oversee this work further enabled the Information Commissioner to redirect resources to the ICO's investigations and reviews. In 2018, the ICO also shifted an existing post into a new Investigation Officer, which allowed the ICO to steadily progress through its backlog of cases.

TRAINING AND DEVELOPMENT

The Information Commissioner's Office continues to focus on the development of our officers in the belief that a well-trained, highly-skilled small team at the ICO will better and more efficiently serve the public and public authorities. Overall, our training and development this year emphasised preparing for the Personal Information Protection Act, keeping our knowledge current of changing regulations and requirements, deepening our mediation and resolution skills, and strengthening our resilience as change leaders.



Tikitta Suhartono, Office Manager for the Information Commissioner's Office, at the Designed For Impact Conference held during December 2018

The Information Commissioner and ICO officers attended:

- Bermuda Human Resources Association PIPA Policies and Procedures Workshop
- Bermuda Compliance Professionals Conference
- KPMG PIPA Training for the Public Sector
- PATI Training with the Policy & Strategy Section
- Conference on the Fiftieth Anniversary of the Bermuda Constitution: Reflections on its Past and Future by the Centre for Justice
- Training on the new Code of Practice for Project Management and Procurement by the Office of Project Management and Procurement
- Designed for Impact Conference
- Alternative Dispute Resolution Training with the Stitt Feld Handy Group

You can read more about our training and conferences in the ICO's Monthly Roundups, which are available on our website www.ico.bm.

INTERNATIONAL PARTNERSHIPS

This year, the Information Commissioner's Office continued to benefit from our international partners. We were pleased to host a visit by Senior Investigator Elizabeth Dolan from the Ireland Information Commissioner's Office. Her two-week visit was an opportunity to build on our existing professional relationship with the Ireland Office of the Information Commissioner, further providing a valuable learning experience for each institution and its staff. Ms. Dolan collaborated with this Office on best practices for oversight of our similar access to information legislation.



Elizabeth Dolan, Senior Investigator from the Office of the Information Commissioner for Ireland and Gitanjali Gutierrez, Information Commissioner for Bermuda

STRENGTHENING THE ORGANISATION

Information Commissioner Gitanjali Gutierrez and incoming Deputy Information Commissioner Angie Farquharson attended a conference on Access & Privacy Oversight: Challenges and Opportunities for Small Jurisdictions hosted by the Nova Scotia Information and Privacy Commissioner Catherine Tully. Eight Information Commissioners and their staff from nine jurisdictions attended. The Commissioners discussed outreach strategies and effective collaboration strategies for nimble regulators. Commissioner Gutierrez introduced Toby Mendel from the Centre for Law and Democracy for his presentation of his report, Right to Information Oversight Bodies: Design Considerations. Following the conference, Commissioner Gutierrez visited the Nova Scotia Office of the Information and Privacy Commissioner to discuss organisational structures and investigation processes.

The Information Commissioner, Deputy Information Commissioner, and an Investigation Officer attended the 11th International Conference of Information Commissioners (ICIC) in Johannesburg, South Africa. The ICIC has traditionally been held every two years and is the only international gathering of Information Commissioners focusing on access to information. The 2019 conference was sponsored by the Information Regulator (South Africa) and the Centre for Human Rights, University of Pretoria. This year's conference

provided diverse local, regional and international advocates, researchers and Information Commissioners an opportunity to discuss access to information, transparency and accountability, the rights of vulnerable communities, and the role of technology in our collective work.

During the last day of the conference, Information Commissioner Gutierrez participated in the closed session for Information Commissioners. In a historical development, the Information Commissioners adopted the Governance Charter for the ICIC. The adoption of the Charter represents a milestone in the establishment of a permanent ICIC, rather than a bi-yearly conference. Information Commissioner Gutierrez is now a member of the Governance Working Group, which is mandated to further the implementation of the new ICIC Charter. Her involvement will ensure that the needs and concerns of Bermuda and our fellow Caribbean and smaller jurisdictions will be well-represented in the new permanent body of the ICIC.

FINANCES

The Information Commissioner's Office proactively publishes much detail about our financial decisions and public expenditures. Our budget for the fiscal year ending 31 March 2019 was \$957,093. For information about our budget, salary scales, contracts and audited financial statements, please visit www.ico.bm. If you would like additional information, just ask! You may email the ICO at info@ico.bm.

The Bermuda Delegation to the 11th International Conference of Information Commissioners with host Pansy Tlakula, Chairperson of the Information Regulator South Africa





LOOKING AHEAD

Like all good tools, the PATI Act only works when it is used. Effective use of the Act will only happen when both the public and public authorities are equipped with a solid understanding of their rights and responsibilities under the Act.

The Act ensures that the public has a legal right to ask for public information that it wants to know. Without the PATI Act, the public would only receive information that public authorities choose to voluntarily report or publish. Members of the public with diverse interests are increasingly using the PATI Act and are asking for public authorities to be accountable in their decisions and actions. Each week, we are seeing more people use the PATI Act to learn how public money is spent, to understand decision-making processes and to review what results public authorities are achieving.

As we look ahead, I will ensure that the ICO continues to provide the educational resources, public outreach initiatives and online resources to ensure that people who want to make a PATI request fully understand their rights and the PATI process.

Public authorities are increasingly recognising the changes introduced by the PATI Act and the direct link these changes have on the conduct of public business. In support of this, the Information Commissioner will continue her comprehensive oversight of all of the requirements under the PATI Act. Correspondingly, the ICO will continue to provide more guidance, Information Commissioner's briefings and additional resources to support best practices by the public authorities.

The ICO will continue to safeguard and guarantee the right of the public to be informed. However, the

Commissioner is always cognizant of the careful balance that is required to protect the legitimate needs of the public authorities to maintain the confidentiality of records, as appropriate under the PATI Act.

This Office is poised to support the exciting developments arising in public access to information, such as the revolutionary advancements in blockchain technology. My aim in the upcoming year is to ensure that all stakeholders in the PATI process encounter value-added interactions with the ICO. In the midst of advancements in information management and accessibility, and the growing importance of good governance, Bermuda's PATI Act places the power of accountability in the hands of the public.

Citanjali S. Gutierrez
Information Commissioner



Information
Commissioner's
Office



Valerie T. Scott Building
60 Reid Street
Hamilton, Bermuda HM12

441-294-9181
info@ico.bm
www.ico.bm