

## Decision Notice

---

### Decision 16/2022: Bermuda Police Service

---

**Various records: failure to decide within statutory timeframe**

**Reference no: 20220427**

**Decision date: 19 May 2022**

## Summary

---

On 15 December 2021, the Applicant asked the Bermuda Police Service (**BPS**) for various records relating to conduct and other matters. This Decision finds that the BPS failed to decide the Applicant's request for an internal review within the statutory timeframe set forth by the Public Access to Information Act 2010.

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

## Background

---

1. This Information Commissioner's Decision is made in the context of a 'failure to decide' case involving an application for review under Part 6 of the Public Access to Information (**PATI**) Act 2010 that was received by the Information Commissioner's Office (**ICO**) on 27 April 2022.
2. This Decision does not address whether a public authority has properly denied access to a record. Rather, it addresses the basic obligation upon a public authority to respond to a requester within the statutory timeframe.
3. Relevant dates include the following:

Date	Action
15 December 2021	The Applicant made a written PATI request to the BPS.
	The Applicant did not receive an initial decision within six weeks of the BPS's receipt of the PATI request, i.e. by 26 January 2022.
31 January 2022	The BPS informed the Applicant that the initial decision period was extended by another six weeks, with 15 March 2022 as its new deadline. <sup>1</sup>

---

<sup>1</sup> While the initial decision period may be extended for up to six weeks under section 15 of the PATI Act for certain reasons, a public authority must tell the PATI requester before the original deadline. If an extension is made out of time, section 15 cannot be relied on. Fortunately for this PATI request, the BPS's procedural misstep did not risk the Applicant's right to seek an internal review, because of the Applicant's prompt action.

	The Applicant did not receive an initial decision by the BPS's stated deadline of 15 March 2022.
16 March 2022	The Applicant requested an internal review be conducted by the BPS's Head of Authority.
	The Applicant did not receive an internal review decision within six weeks of the BPS's receipt of their request for one, i.e. by 27 April 2022.
27 April 2022	The Applicant requested an independent review by the Information Commissioner.
29 April 2022	The ICO notified the BPS in writing that an application had been received from the Applicant. The BPS was asked to comment on the application.
17 May 2022	The Information Commissioner received submissions from the BPS, which are considered below. The BPS also issued an internal review decision to the Applicant.

## **Information Commissioner's analysis and findings**

---

### *Internal Review Decision*

4. Section 43(1) of the PATI Act requires the head of a public authority to conduct an internal review. Section 43(2) gives the head of the public authority a maximum of six weeks, after the date of receiving a request for an internal review, to complete the internal review. Section 43(2) also requires that the head of the public authority notify the applicant of: the internal review decision, the reasons for the decision, and the applicant's right to seek an independent review by the Information Commissioner.
5. On 16 March 2022, the Applicant emailed a request for an internal review to the BPS. The Applicant did not receive an internal review decision by 27 April 2022.
6. On 27 April 2022, the Applicant requested an independent review by the Information Commissioner of the BPS's alleged failure to issue an internal review decision.
7. By letter of 29 April 2022, the ICO invited the BPS to make submissions on this review, as the Information Commissioner is required to do under section 47(4) of the PATI Act. In its

submissions, the BPS acknowledged that the internal review was not completed in the statutory timeframe and apologised for such delay.

8. On 17 May 2022, the BPS issued an internal review decision to the Applicant, which granted access to some of the requested records.
9. It is a matter of fact that the BPS did not provide the Applicant with an internal review decision within the statutory timeframe. The Information Commissioner is satisfied that the BPS failed to comply with section 43(2) of the PATI Act.
10. The Information Commissioner does not require the BPS to take any further action at this time in relation to the Applicant's request for an internal review. The Information Commissioner expresses appreciation to the BPS for its cooperation and efforts to bring itself into compliance with the PATI Act.

## Decision

---

The Information Commissioner finds that the Bermuda Police Service (**BPS**) failed to issue a decision on the Applicant's request for an internal review within the timeframe set forth in section 43(2) of the Public Access to Information Act 2010. During this review, the BPS issued an internal review decision. Consequently, the Information Commissioner does not require the BPS to take any further action in respect of this Decision.

## Judicial Review

---

Should the Applicant, the BPS, or any aggrieved party wish to seek judicial review according to section 49 of the PATI Act against this Decision, they have the right to apply to the Supreme Court for review of this Decision. Any such appeal must be made within six months of this Decision.



Gitanjali S. Gutierrez  
Information Commissioner  
19 May 2022

**Information Commissioner for Bermuda  
Maxwell Roberts Building  
4<sup>th</sup> Floor  
One Church Street  
Hamilton, HM11  
[www.ico.bm](http://www.ico.bm)  
441-543-3700**