

MONTHLY ROUNDUP

Volume VI, Issue V

MAY 2023

WELCOME

The Information Commissioner's Office (ICO) welcomes you to the latest issue of our Monthly Roundup. The ICO is an independent public office that promotes and enforces the Public Access to Information (PATI) Act 2010 in Bermuda.

The ICO's Monthly Roundup offers helpful information about PATI rights and practices for both the public and public authorities.

In this issue, we take a look at the Information Commissioner's recently issued decision which provides insight into how systemic PATI issues within a public authority impacts the PATI rights of Bermudians and residents.

It's that time of year again: The ICO will attend the 14th International Conference of Information Commissioners (ICIC) which will be held 19-21 June, in Manila, Philippines. The theme for this year's conference is *"Bridging Information Across Nations: Concretizing the Global Role of Access to Information for Democratic Preservation, Inclusivity, and Development"*.

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"The right to access and the right to information are cognate human rights, resting on the premise that informed and critical citizens are in the best position to promote, protect, and defend the values of a democratic society."

Excerpt from the Concept Note from the 14th International Conference of Information Commissioners (ICIC)

DECISION ISSUED

During May 2023, the Information Commissioner issued one decision and found one application invalid. Highlights are below:

Does a public authority's effective administration of its PATI responsibilities impact the public's rights? Yes! Decision 08/2023 explains how.

If a public authority is experiencing challenges with fulfilling its PATI obligations, ignoring PATI obligations or delaying decision making can further compound the challenges of processing a PATI request. Ultimately, this undermines the public's right to access public records and to hold government accountable. [Decision 08/2023](#), provides insight into how systemic PATI issues within a public authority impacts the PATI rights of Bermudians and residents.



In this PATI request, the Applicant asked Ministry of Finance Headquarters (Ministry Headquarters) for correspondence of the current and former Ministers of Finance related to the investment firm Gencom, its subsidiaries and specific individuals. In her [Decision](#), the Information Commissioner noted that the requester “has been seeking information on the topic through PATI requests since January 2021”. This Decision related to [Decision 07/2022](#), where the Information Commissioner had found that the Ministry Headquarters failed to provide a response to this PATI request and ordered it to do so.

In her [Decision](#) the Information Commissioner finds that the Ministry Headquarters did not conduct a reasonable search for records responsive to the Applicant's PATI request, and ordered it to do so. The Information Commissioner has also renewed her recommendation that “the Ministry Headquarters allocate appropriate resources and seek appropriate training and support to improve its administration of its PATI responsibilities. This in turn, strengthens its capacity to uphold Bermudians and residents' rights to request access to records held by the Ministry Headquarters”.

Section 62 of the [PATI Act](#) states that every public authority must designate a person to be its Information Officer. The Information Officer provides the initial decision on a PATI request and, under the PATI Regulations, has responsibility to “ensure that applicants are fully informed of the status of their application.” Section 9.7 of the [PATI Code of Practice](#) states that “careful thought should be given when selecting someone to fulfill this role....the Information Officer plays a critical role in the practical implementation of the legislation to fulfil requests for information.” If a public authority does not appoint and retain a skilled, trained and supported Information Officer, the authority's challenges in responding to PATI requests are compounded, as [Decision 08/2023](#) shows.

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DECISION ISSUED...cont.

Once an Information Officer is appointed, several PATI resources are readily available if guidance is needed when processing PATI requests. The Cabinet Office's PATI PIPA Unit is a dedicated team of subject matter experts that is charged with assisting public authorities with fulfilling their PATI obligations. Whether an Information Officer is new to PATI work or a veteran, this knowledgeable team can assist with templates, training, resources and advice. They have published the [PATI Code of Practice](#), which provides a wealth of procedural and logistical guidance for everyone with a role in PATI work. They also host PATI training throughout the year. Email the PATI PIPA Unit at pati@gov.bm.



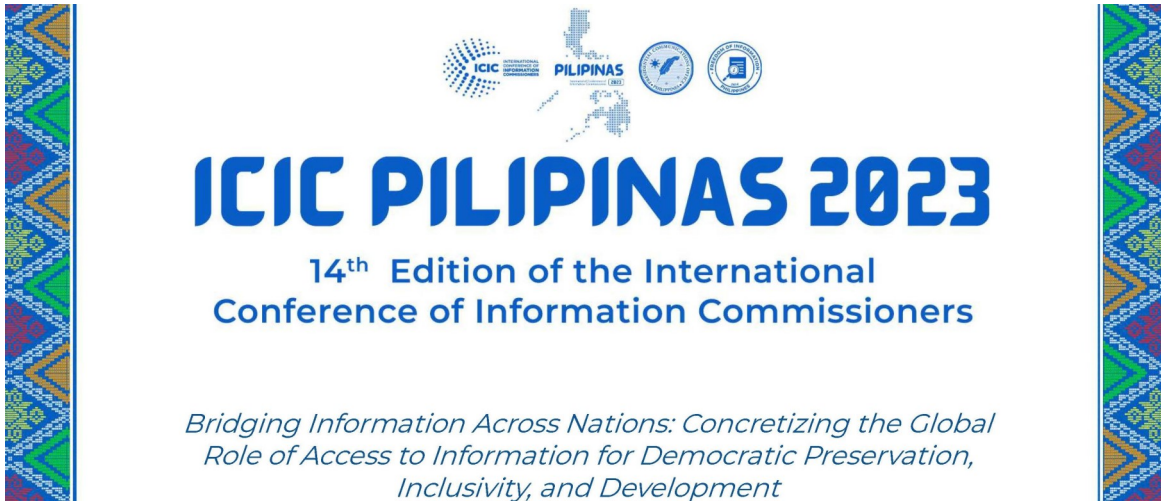
Additional resources are provided by the ICO. The ICO officers make great efforts to work with public authorities to ensure their compliance with the PATI Act. If a public authority has queries, it may reach out to the ICO at info@ico.bm for assistance in understanding the PATI Act and available resources.

Another great place to learn about the PATI Act is the ICO's website, ico.bm. Here, PATI requesters and public authorities will find the ICO's [published guidances](#), [Information Commissioner's decisions](#), [annual reports](#), [press releases](#) and copies of our [Monthly Roundups](#). Public authorities' [Information Statements](#) are also published on ico.bm. An Information Statement provides the contact details for a public authority's Information Officer.

In addition, the Information Commissioner hosts quarterly Information Briefings for all Information Officers, Heads of Authorities, Government Heads of Departments or other leaders within Bermuda's public authorities. These Briefings bring PATI officers together to discuss current PATI matters and consider how the Commissioner has applied the PATI Act in her decisions. It also provides an opportunity for Information Officers (who are often on the front line for PATI requests) to meet and network with fellow Information Officers. [Past briefings presentations](#) are available on ico.bm. Any Information Officer or Head of Authority who would like to receive the briefing invites, may email info@ico.bm to ensure that you are notified of upcoming sessions.

Ultimately, appointing an appropriate Information Officer - and ensuring support for their work - is critical for safeguarding the public's right to access information and the purposes of the PATI Act to further accountability and transparency.

ICO TO ATTEND 14TH INTERNATIONAL CONFERENCE OF INFORMATION COMMISSIONERS



The 14th International Conference of Information Commissioners (ICIC) will be held 19-21 June 2023 in Manila, Philippines. The [ICIC](#) is the only global forum of member Information Commissioners who are responsible for the protection and promotion of access to information laws, and currently has over 80 member institutions. The ICIC's mission is to share knowledge and best practices, to build capacity, to help identify what is needed for global progress and to act as a collective voice in international fora with a view to improving people's right to public information and their ability to hold to account bodies that provide public functions. Under the leadership of Information Commissioner Gutierrez, the Bermuda ICO sits on the seven-member Executive Committee of the ICIC.



The theme for this year's conference is "*Bridging Information Across Nations: Concretizing the Global Role of Access to Information for Democratic Preservation, Inclusivity, and Development*". As the ICIC's [Concept Note](#) explains, "[w]ith the heightened recognition of ATI as a field of practice and the growing number of "young" and dynamic ATI bodies, ICIC is a venue to showcase the strong international network promoting transparency and access to information". Through the work of the Information Commissioners, the ICIC seeks to advance the best and most innovative practices to realise a robust right to information, and the pursuit of transparency and accountability.

The ICO will participate in two panels during the open sessions of the ICIC. Information Commissioner Gitanjali Gutierrez is a panelist for a session entitled *Policy Framework for ATI (Access to Information) in the Global Arena: Paradigm Shift and Reforms* while Ms. Dill is a panelist for the session entitled *Open Contracting for Public Sector Cost Effectiveness*. The full [Conference Program](#) includes two days of panels, presentations and workshops.

The open sessions will be available on the [ICIC YouTube](#) channel.

ICO SESSIONS FOR EXECUTIVE OFFICERS, DEPARTMENT HEADS AND SENIOR MANAGEMENT ON PATI MANAGEMENT

The efficiency and success of an Information Officer’s work under the PATI Act often depends heavily on sufficient support and resources from their management. When Executive Officers, Department Heads and senior management recognise that their public authority’s PATI obligations are a core part of its regular business functions, the management is better positioned to ensure the public authority meets its legal and regulatory responsibilities. Management is responsible for ensuring that appropriate resources (human, digital and physical) are in place for the public authority to function efficiently and effectively. This includes efficiently processing PATI requests and meeting its proactive PATI publication requirements. When management identifies and oversees PATI resources, a supported Information Officer can appropriately fulfill their statutory duties and successfully manage PATI obligations on behalf of the public authority.



Executive Officers, Department Heads and senior management have a number of resources available to support their management responsibilities, including the Minister’s PATI Practice Code. From the ICO, Information Commissioner Gutierrez and the ICO officers offer bespoke guidance sessions for management teams, as well as the entire public authority, to ensure that management and other officers or employees are aware of their responsibilities and resources related to the PATI Act. These sessions are an opportunity to:

- learn about availability of PATI support resources and how to access them
- assess the importance of efficient records and risk management
- ensure that each individual understands their responsibility in supporting that their public authority meets its legal and regulatory obligations under the PATI Act
- candidly discuss with the ICO the PATI challenges that your public authority is experiencing
- identify strategies to more efficiently administer the PATI process

To schedule a session with the Information Commissioner, contact Sheena Bassett, ICO Project Officer, at sbassett@ico.bm or call 543-3700.

ICO STATISTICS AS OF 31 MAY 2023 (from 1 April 2015)

Total applications for independent review	Closed: Decided 140
by the Information Commissioner258	Closed: Resolved29
Pending investigations49	Closed: Abandoned7
Applications pending validation3	Closed: Invalid 30



**International Conference of Information Commissioners (ICIC)
14th Annual International Conference**

Theme: *Bringing Information Across Nations: Concretizing the Global Role of Access to Information for Democratic Preservation, Inclusivity and Development*

19-21 June 2023

Location: Manila, Philippines

Information Commissioner Gutierrez and Investigation Officer LaKai Dill are presenting on panels. The full conference program includes two days of panels, presentations and workshops, and will be available live and recorded.

**Information Commissioner's Quarterly Briefings
2023-2024**

Thursday, 14 September 2023

Thursday, 7 December 2023

Thursday, 22 February 2024

ICO Briefings are for public authorities only.
Registration details will be sent directly to public authorities.