

## Decision Notice

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**Decision 18/2023: Bermuda Police Service**

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**Internal emails: failure to decide**

**Reference no: 20230605**

**Decision date: 24 July 2023**

## Summary

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On 1 March 2023, the Applicant asked the Bermuda Police Service (**BPS**) for emails between senior BPS Officers referencing the Applicant and another officer. The Acting Information Commissioner has found 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.

The Acting Information Commissioner has ordered the BPS to comply with the requirement to issue a decision on the request for an internal review on or before **Monday, 21 August 2023**.

## Background

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1. This Acting Information Commissioner's Decision is for a 'failure to decide' application for review under Part 6 of the Public Access to Information (**PATI**) Act 2010 which was received by the Information Commissioner's Office (**ICO**) on 5 June 2023. It addresses a public authority's basic obligation to respond to a requester's internal review request within the statutory timeframe, not whether a public authority has properly denied access to a record.
2. In this Decision, relevant dates include:

Date	Action
1 March 2023	The Applicant made a written PATI request to the Bermuda Police Service ( <b>BPS</b> ).
12 April 2023	The statutory deadline passed for the BPS to issue an initial decision, i.e., within six weeks of the PATI request date.
21 April 2023	The Applicant made a timely request for the Head of Authority to conduct an internal review; such request was due within six weeks of the initial decision due date, i.e., by 24 May 2023.
2 June 2023	The statutory deadline passed for the BPS to issue an internal review decision, i.e., within six weeks of its receipt of the Applicant's request for one.

5 June 2023	The Applicant requested an independent review by the Information Commissioner.
3 July 2023	The ICO notified the BPS of this application for review and invited its comments.

## **Acting Information Commissioner’s analysis and findings**

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### *Internal Review Decision*

3. 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.
4. On 21 April 2023, the Applicant requested an internal review by the BPS’s Head of Authority, who for purposes under the PATI Act is the Commissioner of Police. The Applicant did not receive an internal review decision by 2 June 2023.
5. On 5 June 2023, the Applicant requested an independent review by the Information Commissioner of the BPS’s alleged failure to issue an internal review decision.
6. By letter dated 3 July 2023, 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.
7. It is a matter of fact that the BPS did not provide the Applicant with an internal review decision within the statutory timeframe. The Acting Information Commissioner is satisfied that the BPS failed to comply with section 43(2) of the PATI Act and now orders the BPS to issue an internal review decision by Monday, 21 August 2023. The BPS also may wish to consider apologising to the Applicant.

## Decision

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The Acting 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 (**PATI**) Act 2010.

As set forth in the accompanying Order, the Acting Information Commissioner orders the BPS to provide a decision on the request for an internal review to the Applicant in accordance with section 43 of the PATI Act, with a copy to the Acting Information Commissioner's Office, on or before **Monday, 21 August 2023**.

## Judicial Review

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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.

## Enforcement

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This Decision has been filed with the Supreme Court, according to section 48(3) of the PATI Act. If the BPS fails to comply with this Decision, the Information Commissioner has the authority to pursue enforcement in the same manner as an Order of the Supreme Court.



Answer C. Styannes  
Acting Information Commissioner  
24 July 2023

**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**