

## Decision Notice

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### Decision 09/2024: Accountant General's Department

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**Records on sums paid on behalf of the Legal Aid Office: failure to decide within statutory timeframe**

**Reference no: 2024004**

**Decision date: 13 March 2024**

## Summary

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On 4 September 2023, the Applicant asked the Accountant General's Department (**Department**) for records relating to sums paid by the Department on behalf of the Legal Aid Office. The Information Commissioner has found that the Department 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 the review, the Department issued an internal review decision to the Applicant. The Information Commissioner has not required further action in respect of this Decision.

## Background

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1. This 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 8 February 2024. 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
4 September 2023	The Applicant made a written PATI request to the Accountant General's Department ( <b>Department</b> ).
14 December 2023	The Department issued an initial decision to the Applicant.
14 December 2023	The Applicant made a timely request for the Head of Authority to conduct an internal review, i.e., by 25 January 2024.
25 January 2024	The statutory deadline passed for the Department to issue an internal review decision, i.e., within six weeks of its receipt of the Applicant's request for one on 14 December 2023.
8 February 2024	The Applicant requested an independent review by the Information Commissioner.

14 February 2024	The ICO notified the Department of this application for review and invited its comments.
13 March 2024	The Department issued an internal review decision out of time (by letter dated 11 March 2024).

## 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 14 December 2023, the Applicant requested an internal review by the Department’s Head of Authority, who for purposes under the PATI Act is the Financial Secretary. The Applicant did not receive an internal review decision by 25 January 2024.
5. On 8 February 2024, the Applicant requested an independent review by the Information Commissioner of the Department’s alleged failure to issue an internal review decision.
6. By letter dated 14 February 2024, the ICO invited the Department to make submissions on this review, as the Information Commissioner is required to do under section 47(4) of the PATI Act. In reply, the Head of Authority under the Schedule to the PATI Act, the Acting Financial Secretary, stated that they intended to issue the internal review decision. During this review, the Department issued an internal review decision to the Applicant.
7. It is a matter of fact that the Department did not provide the Applicant with an internal review decision within the statutory timeframe. The Information Commissioner is satisfied that the Department failed to comply with section 43(2) of the PATI Act.
8. As the Department has issued an internal review decision during this review, the Information Commissioner does not require the Department to take further action on the Applicant’s request for an internal review.

## Decision

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The Information Commissioner finds that the Accountant General's Department (**Department**) 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. Since the Department has issued an internal review decision during this review, the Information Commissioner does not require the Department to take any future action in respect of this Decision.

## Judicial Review

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The Applicant, the Accountant General's Department and any other person aggrieved by this Decision have the right to apply to the Supreme Court for review of this Decision, in accordance with section 49 of the PATI Act. Any such application must be made within six months of this Decision.

Gitanjali S. Gutierrez  
Information Commissioner  
13 March 2024

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