

## Decision Notice

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### Decision 36/2024: Bermuda Gaming Commission

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#### **Banking of casino funds: failure to decide within statutory timeframe**

**Reference no:** 2024081

**Decision date:** 3 December 2024

## Summary

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On 19 June 2024, the Applicant asked the Bermuda Gaming Commission (**Commission**) for records related to the banking of casino funds. The Information Commissioner has found that the Commission failed to decide on the Applicant's request for an internal review within the statutory timeframe set forth by the Public Access to Information Act 2010.

The Information Commissioner has ordered the Commission to comply with the requirement to issue a decision on the Applicant's request for an internal review on or before **Tuesday, 7 January 2025**.

## 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 7 November 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
19 June 2024	The Applicant made a written PATI request to the Bermuda Gaming Commission ( <b>Commission</b> ).
31 July 2024	The statutory deadline passed for the Commission to issue an initial decision, i.e. within six weeks of the PATI request date.
11 September 2024	The Commission issued an initial decision granting access to part, refusing access to part and administratively denying part of the request.
12 September 2024	The Applicant made a timely request for the Commission's Head of Authority to conduct an internal review of the initial decision.

24 October 2024	The statutory deadline passed for the Commission to issue an internal review decision, i.e. within six weeks of its receipt of the Applicant's request for one on 12 September 2024.
7 November 2024	The Applicant requested an independent review by the Information Commissioner.
14 November 2024	The ICO notified the Commission of this application for review and invited its comments.

## 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 12 September 2024, the Applicant requested an internal review by the Commission's Head of Authority, who for purposes under the PATI Act is the Chair of the Commission. The Applicant did not receive an internal review decision by 24 October 2024.
5. On 7 November 2024, the Applicant requested an independent review by the Information Commissioner of the Commission's alleged failure to issue an internal review decision.
6. On 14 November 2024, the ICO invited the Commission to make submissions on this review, as the Information Commissioner is required to do under section 47(4) of the PATI Act. The Commission did not make submissions to the ICO.
7. It is a matter of fact that the Commission did not provide the Applicant with an internal review decision within the statutory timeframe. The Information Commissioner is satisfied that the Commission failed to comply with section 43(2) of the PATI Act and now orders the Commission to issue an internal review decision. The Commission also may wish to consider apologising to the Applicant.

## Decision

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The Information Commissioner finds that the Bermuda Gaming Commission (**Commission**) failed to issue a decision on the Applicant's request for an internal review within the timeframe in section 43(2) of the Public Access to Information (**PATI**) Act 2010. As set forth in the accompanying Order, and in accordance with section 43 of the PATI Act, the Information Commissioner orders the Commission to provide a decision on the request for an internal review to the Applicant, with a copy to the Information Commissioner's Office, on or before **Tuesday, 7 January 2025**.

## Judicial Review

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Should the Applicant, the Bermuda Gaming Commission, 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 Bermuda Gaming Commission 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.



Gitanjali S. Gutierrez  
Information Commissioner  
3 December 2024

**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**