

Decision Notice

Decision 32/2024: Bermuda Civil Aviation Authority

Airport audit and inspection reports

Reference no: 2024014

Decision date: 29 November 2024

Summary

The Applicant made a request under the Public Access to Information (**PATI**) Act 2010 to the Bermuda Civil Aviation Authority (**Authority**) for audit and inspection reports related to the L. F. Wade International Airport as well as all documentation and reports produced by the Authority's technical officers.

The Authority administratively denied the request under section 16(1)(c) of the PATI Act because it determined that processing the request would have created a substantial and unreasonable interference with or disruption to the Authority's other work.

The Information Commissioner has upheld the Authority's internal review decision and does not require the Authority to take any further action on this request.

Relevant statutory provisions

Public Access to Information Act 2010: section 16(1)(c) (substantial and unreasonable interference or disruption).

Public Access to Information Regulations 2014: regulation 9 (unreasonable interference or disruption of other work).

The Appendix provides the text of these statutory provisions and forms part of this Decision.

Background

1. As background, the Bermuda Civil Aviation Authority (**Authority**) was established by the Bermuda Civil Aviation Authority Act 2016 (**BCAA Act**). The Authority's primary function is to carry out the delegated responsibilities of the Governor, conferred by the Air Navigation (Overseas Territories) Order 2013 (**Order**). The Order is the statutory instrument issued by the United Kingdom (**UK**) which ratifies the UK's obligations, arising from the 1944 Chicago Convention on International Civil Aviation (**Chicago Convention**), which has been extended to Bermuda. Essentially, the Authority was created to ensure Bermuda's compliance with the Chicago Convention.
2. The Authority, therefore, is responsible for the regulation and safety oversight of aviation in Bermuda and all aircraft registered on the Bermuda Aircraft Registry. The Authority is also responsible for the certification and licensing of airports and the inspection of airports, including airport safety management practices to ensure compliance with the

BCAA Act. The L. F. Wade International Airport, the sole airport serving the island of Bermuda, is therefore registered with and regulated by the Authority.

3. On 23 October 2023, the Applicant made a Public Access to Information (**PATI**) request to the Authority, asking for copies of all audit and inspection reports for the L. F. Wade International Airport since 1 January 2020 (**item 1**) along with copies of all documentation and reports produced by the Authority's technical officers in the same period (**item 2**). The Applicant specifically asked to be contacted if the request was too wide, so they could discuss ways to amend the request appropriately.
4. On 24 October 2023, the Authority sent its formal acknowledgement letter and on 30 October, the Authority invited the Applicant to narrow the request. The Applicant responded on 6 November 2023 with an attempt to narrow the request by limiting item 2 to read "copies of all documentation and reports about safety matters produced by the [Authority's] technical officers since 1 January 2020". That same day, the Authority explained that this did not narrow the request because the "safety" qualification did not have any impact on the breadth of the request. The Authority advised that all its reports, emails and documents involved safety and regulatory compliance.
5. Between 7 and 14 November 2023, the Authority and Applicant engaged in correspondence to narrow the scope of the request. The Applicant asked for more information on the estimated number of responsive reports over the nearly four-year period. The Authority explained that it had identified a minimum of 380 reports of varying lengths issued since 1 January 2020, which was too voluminous to process.¹
6. On 20 November 2023, the Authority invited the Applicant to narrow the request using more specific dates, a specific incident or other limiting factors. The Applicant kept item 1 as originally requested and narrowed item 2 to a shorter period, since 1 January 2022.
7. On 27 November 2023, the Authority acknowledged the Applicant's updated request. On 1 December 2023, the Authority notified the Applicant that it was extending the time for an initial decision to 15 January 2024, by virtue of section 15(1)(b) of the PATI Act.
8. On 12 January 2024, the Information Officer submitted an internal memo explaining that, after retrieving and conducting a cursory review of the records responsive to the PATI request, the Information Officer was of the view that the amended request remained too large to process within the PATI time.

¹ The Authority stated that they had interpreted 'report' in this context as "a formal record of the proceedings of a meeting or session".

9. On 15 January 2024, the Authority again sought the Applicant's view on whether section 16(1)(c) would apply, to provide the Applicant fair opportunity to make their views known before an initial decision was made. Specifically at this time, the Authority provided the Applicant with details from the memo explaining why processing the PATI request would result in a substantial and unreasonable interference with or disruption to the Authority's other work.
10. Following this, the Authority and Applicant engaged in extensive correspondence between 15 January 2024 and 13 February 2024. The Applicant explained the context of their request, that claims had been made that the L. F. Wade International Airport was failing or had failed to meet basic aviation safety standards. The Applicant maintained that they were unable to further narrow the scope of the request without knowing the dates of the audits and inspections that had been carried out, and the volume or content of the audit and inspection reports completed.
11. On 13 February 2024, the Authority concluded its communication with the Applicant by stating that the Applicant's position was understood to be that it was unfair to expect the Applicant to reduce the size of the request without understanding what was contained in the documents.
12. On 12 February 2024, the Applicant asked for an internal review because the deadline for seeking one would expire soon.
13. On 1 March 2024, the Authority issued an internal review decision administratively denying the request under section 16(1)(c).²

² At the time, the Authority understood the Director General to be the Head of Authority, and it was the Director General that issued the internal review decision. During the ICO's review, the ICO clarified with the Authority that the Board Chair was the designated Head of Authority by virtue of the Schedule to the PATI Act. Public authorities are reminded to regularly consult the Cabinet Office's [PATI Administrative Practice Code](#).

The Information Commissioner has noted another opportunity to clarify certain statements about the PATI process made by the Authority during its initial consideration of section 16(1)(c), as described in its internal review decision. Some confusion arose at the initial decision stage by the requirement in section 16(1)(c) that, when determining whether it is applicable, an Information Officer must seek the opinion of the head of authority on whether fulfilling the PATI request would result in a substantial and unreasonable interference with or disruption to the work of the public authority. The Authority described the head of authority's role in giving this *opinion* to the Information Officer as the head actually *deciding* the initial question. Instead, section 16(1)(c) provides that an Information Officer might take the opinion of the head of authority and continue to work with a requester to narrow a PATI request to avoid the burdens identified by the head of authority, thus allowing an amended PATI request to be processed. The handling of the request was further complicated when the Authority failed to issue a timely initial decision. The

14. On 7 March 2024, the Applicant asked for an independent review by the Information Commissioner to challenge the Authority's internal review decision.

Investigation

15. The Information Commissioner's Office (**ICO**) accepted the application as valid on the basis that the Applicant had made a PATI request to a public authority and had asked that public authority for an internal review. The ICO also confirmed the issues the Applicant wanted the Information Commissioner to review.
16. The Information Commissioner decided that early resolution under section 46 of the PATI Act was not appropriate for this application, because submissions from both parties were required on the administrative denial.
17. The ICO notified the Authority of the valid application on 26 March 2024. The ICO worked with the Authority to confirm that the Board Chair adopted the decision of the Director General as her own. On 18 April 2024, the Board Chair provided this confirmation to both the ICO and the Applicant. This practical approach enabled the ICO to proceed with the Information Commissioner's review.
18. During the review, the ICO attempted unsuccessfully to resolve or narrow the issues between the parties.
19. As required by section 47(4) of the PATI Act, the parties were invited to make representations to the Information Commissioner. The Applicant provided submissions on 30 May 2024. The Authority made submissions on 22 November 2024 and relied on its internal review decision and prior correspondence with the Applicant.

Authority's communications with the Applicant concerning the opinion of the head of authority on section 16(1)(c) for the initial response were then incorporated into what became the Authority's internal review decision. Although the confusion is understandable, public authorities should be clear that (a) the head of authority's opinion given to the Information Officer (as the statutory decision maker for the initial response) is distinct from (b) the head of authority's internal review decision of the Information Officer's initial response. While in some cases the outcome may be the same, the two separate processes allow for proper consultation with the requester and a fair opportunity for a 'fresh' look at the handling of the PATI request by the head of authority.

Information Commissioner's analysis and findings

20. In coming to this Decision, the Information Commissioner considered all the relevant submissions, or parts of submissions, made by the parties. She is satisfied that no matter of relevance has been overlooked.

Substantial and unreasonable interference or disruption – section 16(1)(c)

21. Public authorities are entitled under section 16(1)(c) to administratively deny a PATI request if, in the opinion of the head of the public authority, granting the request would cause a substantial and unreasonable interference with or disruption of the other work of the public authority.
22. As set out in section 16(1)(c), the interference or disruption must be due to:
- a. the volume of records that would need to be retrieved and examined, or
 - b. the nature of the records that would need to be examined, or
 - c. both.
23. In accordance with section 16(2), a public authority must assist or offer to assist the requester to narrow the request before relying on the administrative denial in section 16(1)(c). Regulation 9(1) of the PATI Regulations 2014 (**PATI Regulations**) explains in further detail what steps a public authority must take to assist a requester:
- [T]he information officer shall send written communication to the applicant—
- a. explaining how the request is likely to cause a substantial and unreasonable interference with or disruption of other work; and
 - b. inviting consultation with a view to narrowing the request.
24. Together, section 16(2) and regulation 9(1) require the public authority to explain its reasons and supporting facts to the requester. It is not enough for a public authority to simply cite section 16(1)(c) and ask the requester to narrow the request. The explanation must allow a requester a meaningful opportunity to consult with the public authority to amend the request. On the one hand, a public authority has knowledge of its records, records management practices, and resources. Along with its obligations under the duty to assist in section 12(2)(a) of the PATI Act, this makes a public authority better placed than the requester to offer practical suggestions on how to amend the request. On the

other hand, the requester is often best positioned to offer suggestions for focusing a request to retrieve the information they wish to know.

25. The nature and amount of assistance required by section 16(2) may also vary significantly from case to case. It will depend upon the particular facts and circumstances of the request, including the willingness of the parties to engage in a meaningful discussion.
26. In most cases, the first step the public authority must take to meet the requirements of section 16(2) and regulation 9(1) is to retrieve, or attempt to retrieve, the responsive records. This allows the public authority to explain the necessary details to the requester, which may include: the estimated volume of the records; the complex nature of the information in the records; the potential locations in which the records are stored or filed and the relevant filing system; the steps that would be required to identify, locate, retrieve and examine the records; the estimated length of time and personnel required to process the records; whether any records or parts of records can be released without causing a substantial and unreasonable burden; and the size, staffing and work of the public authority.
27. For section 16(1)(c) to apply, the interference or disruption to the public authority's other work must be both substantial and unreasonable. The ordinary meaning of 'substantial' is 'of considerable importance, size or worth'.³ The fact that processing a PATI request is burdensome or frustrating or causes inconvenience is not sufficient. The interference or disruption must be of significant, considerable impact upon a public authority's work.
28. Determining whether the interference or disruption is 'unreasonable' requires the public authority to consider whether, in light of objective factors, responding to the PATI request would be 'beyond the limits of acceptability or fairness'.⁴ In considering unreasonableness, the fairness of the burden on the public authority must be viewed in light of the purposes of the PATI Act in section 2: to give the public the right to access information held by public authorities to the greatest extent possible, subject to the exemptions within the Act; to increase transparency and eliminate unnecessary secrecy; to increase the accountability of public authorities; and to inform the public about the activities of public authorities.
29. When evaluating unreasonableness, regulation 9(2)(b) further identifies the types of factors that a public authority must consider, including: its nature and size; the number,

³ Oxford Dictionary of English (3rd ed. 2010).

⁴ Oxford Dictionary of English (3rd ed. 2010).

type and volume of responsive records; and the time involved to fully process the request.

30. The full processing of a request requires a public authority to:
 - a. Identify, locate, and retrieve the records within its filing system;
 - b. Examine the records to decide whether to grant or refuse access, including consulting with any persons or bodies, copying records, and redacting records;
 - c. Notify the requester of interim or final decisions; and
 - d. Attend to any other required matters.
31. Regulation 9(2) explains that when determining the resources and time it will take to process the request, a public authority should consider its existing resources, consistent with its attendance to its other work.
32. In sum, in determining whether a public authority's reliance on section 16(1)(c) was justified, the Information Commissioner takes into account the following:
 - [1] Did the public authority assist, or offer to assist, the PATI requester with amending the request?
 - [2] Would fully processing the request cause a substantial and unreasonable interference with or disruption to the public authority's other work?
33. The specific circumstances in each case will inform the Information Commissioner's assessment.
34. Finally, the public authority bears the burden to establish, on the balance of probabilities, that its reliance on section 16(1)(c) was justified.

Public authority's submissions

35. The Authority explained that full processing of the responsive records for the amended request would affect seven related and regulated bodies; would include seven audits and inspections totalling 245 pages of data and safety information that was considered to be highly sensitive by Annex 19, Appendix 3 of the Chicago Convention;⁵ and would include further correspondence between numerous third-party individuals, encompassing 22

⁵ Appendix 3 of the Chicago Convention speaks to the legal obligations for civil and state aircraft.

reports of various length totalling hundreds of pages that would require thorough vetting and third-party notifications.

36. To accomplish this, the Authority estimated that it would require a minimum of 150 to 210 staff hours from the Information Officer and two technical officers, as well as approximately 15 hours of billable time from outside legal counsel to review the decision to ensure that the Authority was complying with its legal obligations under the Chicago Convention and the Air Navigation (Overseas Territories) Order 2013. The Authority estimated the cost of counsel to be \$9,000 to \$10,000.
37. Further, the Information Officer was the Director of Human Resources and the Authority's only human resource officer. The loss of the time of two technical officers to review the records would compound this hardship. One of the technical officers was the Director of Operations, responsible for the regulation of flight operations, personnel licensing, aerodrome oversight, and dangerous goods transported by air. The Director of Operations also managed all of the Authority's staff assigned to these regulatory activities and was an indispensable member of the senior management team. The Director of Operations was often required to travel about once a month.
38. The second technical officer, the Aerodrome Inspector, was responsible for the Authority's oversight of the Airport, including the air terminal, all infrastructure, such as the airfield, and the services required to operate and maintain that infrastructure. The Aerodrome Inspector's responsibilities included but were not limited to regulatory oversight of fire, rescue and emergency medical services, air traffic control, ground handling services, the storage and handling of aviation fuel, maintenance of the runway and taxiways, airfield lighting, and maintenance and operation of navigational aids. The Authority maintained that these duties were indispensable. It asserted that the estimated time it would take these three officers to process the request would cause undue hardship to the Authority.
39. The Authority also explained that although the documents in question were mostly electronic and easily retrieved, it would still be necessary to vet each record as part of processing the request. Many of the records contained information likely to be exempt due to the sensitive nature of the airport's safety and security systems and protocols, in addition to personal information contained in the records. The Authority also submitted that many of the documents that fell within the scope of the request were also of a highly technical nature and would need to be vetted by the two senior technical officers.
40. The Authority noted that it is a relatively small quango, with an annual budget of approximately \$9.5 million dollars. At the time of the PATI request, it employed 29

permanent post holders on a full-time basis. Of the Authority's permanent staff, only 12 individuals worked in administration. The remaining 17 individuals were considered technical officers and managed busy schedules, with seven of them traveling for work on a frequent basis. Four of the post holders resided and worked in the UK. The Authority also engaged 28 independent contracts, mostly stationed in multiple different countries and working for the Authority on an "as needed" basis. Presently, the Authority only employed one independent contractor in Bermuda. Further, the entire workforce of the Authority regularly present in Bermuda on a full-time basis was 19 individuals. If the Authority were to assign three individuals to process the amended request, it would lose 16% of its workforce in Bermuda during the time it would have taken to process the amended request.

41. The Authority also documented its offer to assist and subsequent consultation with the Applicant in an effort to narrow the request, as required by regulation 9(1) of the PATI Regulations. This included correspondence between the Information Officer and the Applicant between 30 October 2023 and 1 December 2023, as well as the Applicant's correspondence with the Director General, described above in paragraphs 4-12.

Applicant's submissions

42. The Applicant submitted that claims had been made that the airport was failing or had failed to meet basic aviation safety standards in many areas. In the interests of transparency and public confidence, the Applicant requested the audit and inspection reports as well as reports produced by the Authority's technical officers to provide a full picture of any incidents or concerns.
43. The Applicant further submitted that without being informed of when the audits and inspections were carried out, or of the volume or content of the reports, it would be difficult for the Applicant to effectively narrow their request. The Applicant stated that they were open to discussions on how to narrow the request but emphasised that they were unable to reduce the scope of the request without understanding the contents of the requested documents.
44. The Applicant explained that they did not believe that the Authority, in line with section 16(2), "assisted, or offered to assist, the requester to amend the request in a manner such that it no longer falls under" the provisions of section 16(1)(c). The Applicant believed the onus was placed on them to narrow their request, which they believed they had done twice, but that there was little communication, if any, from the Authority to discuss how they might best narrow the request so that it would yield a result. The Applicant submitted that they did not recall that there was ever a clear

indication about how the records were kept or categorised, which may have further helped the Applicant to narrow the scope of the request.

Discussion

[1] Did the public authority assist, or offer to assist, the PATI requester with amending the request?

45. The Authority documented its offer to assist and its consultations with the Applicant in attempting to sufficiently amend the request.
46. The Authority underwent two distinct rounds of correspondence with the Applicant during which it provided information about why the scope of the request was too burdensome to process. The first occurred with the Information Officer between 30 October 2023 and 1 December 2023. The Authority explained the nature of its records and work, the volume and technical, confidential nature of the reports, and the extent of the Authority's resources. The Authority also suggested that the Applicant narrow the request to a shorter timeframe or a specific incident.
47. While consulting with the Information Officer, the Applicant made efforts to narrow the request twice by limiting the records created by technical officers to reports about safety matters and requesting records from a two-year period, rather than a four-year period. As the Authority explained, however, this still resulted in a significant number of records because the entirety of the Authority's work focused on safety regulation and the highly sensitive reports were still voluminous and time consuming to process, even for a two-year period.
48. During a second round of consultations in correspondence with the Director General between 15 January 2024 and 13 February 2024, the Authority gave the Applicant further details about its assessment of the substantial and unreasonable interruption with and disruption of its work that would be caused by processing the request. The Authority sought to provide the Applicant with an opportunity to comment on this assessment before the final decision was made.
49. Through this correspondence, it became apparent that prior to making this PATI request, the Applicant had learned information that the airport was alleged to have failed to meet basic aviation safety standards. The Applicant sought to review audit and inspection reports and the technical officers' reports to obtain a full picture of any incidents or concerns. Yet, the Applicant maintained throughout discussions that without being fully informed of when the audits and inspections were carried out, and not knowing the volume or withheld content of each report, it was difficult to narrow the request.

50. The Applicant's assertion that it was impossible to narrow the request without being aware of the nature, details or content of the withheld records was misplaced. The framework under the PATI Act and Regulations requires a public authority to provide sufficient information for meaningful consultation with a requester to narrow the scope of the request, but it does not require disclosure of the content or precise details of the nature of each record. The Authority satisfied this requirement.
51. The Authority provided the Applicant with the general nature of the withheld records, the minimum number of withheld records identified, the steps required to process the request, the minimum number of hours required to process the request, the staffing resources it considered relevant, the number of regulated bodies in other jurisdictions that would be affected by the request, and the strain that would be created on its resources by processing the request. Importantly, the Authority also asked the Applicant to consider narrowing the request to a specific incident or shorter period. Although the Applicant attempted to narrow only item 2 of the request to "reports" over a two-year period, the Authority explained that this was insufficient in light of the information it had already provided to the Applicant.
52. When such a large volume of records is responsive to a request and an applicant cannot further narrow its scope, section 16(1)(c) enables a public authority to avoid a burdensome fishing expedition.⁶ Here, the Authority's consultation afforded the Applicant the opportunity to further narrow the request in several ways. As a starting point and considering the volume of records indicated by the Authority, the Applicant could have narrowed the request to a more specific or shorter timeframe. For example, records from a three- to six-month period (or whatever period resulted in a manageable number of records for the Authority to process) could have allowed the Applicant to see the types of records that might be disclosed, or to learn that the substantive parts of the records were subject to an exemption. Or, as the Applicant indicated in its correspondence to the Authority regarding the claims it received surrounding the airport's alleged failure to meet basic aviation safety standards, the Applicant could have narrowed the request to a specific alleged incident that prompted the above claims. If

⁶ The Information Commissioner also notes for both public authorities and requesters that some circumstances may arise where sampling may be a beneficial and effective approach to facilitate public access to information. This could include, for example, the sampling of an agreed number of records that the Authority could process, such as the first report issued per month over a six-month period. This can result in a manageable, random sample of the responsive records. It also gives a requester the chance to learn what records, if any, may be subject to disclosure or what exemptions may be involved. It may also lay the foundation for a more refined, follow-up PATI request.

the Applicant was aware of specific safety concerns, such as lighting, short-staffing or so on, the request could have been narrowed to a particular subject.⁷

53. Overall, the Authority consulted meaningfully with the Applicant by remaining engaged in providing comprehensive details to the Applicant and continuing correspondence with the Applicant. Although the Applicant sought informal verbal discussions, and this may very well have been beneficial, it was not necessary to meet the requirements of section 16(1)(c) and regulation 9(1) in these circumstances.⁸
54. In light of the above, the Information Commissioner is satisfied that the Authority offered to assist the Applicant on a number of occasions.

[2] Would fully processing the request have caused a substantial and unreasonable interference with or disruption to the public authority's other work?

55. The Information Commissioner accepts the accuracy of the Authority's detailed estimate of the time and resources required to fully process the amended request, as described above in paragraphs 4 and 5.
56. The PATI Act does not require public authorities to suspend the work of multiple officers with distinct duties for multiple weeks to allow for the processing of a PATI request. In [Decision 03/2018, Department of Health](#), paragraphs 87-90, the Information Commissioner noted that the Department's estimate of 3 days to fully process a PATI request did not rise to a level of a substantial interference, particularly when considering that the Department's original 6-week time period to prepare an initial response could be extended to 12 weeks.⁹
57. Here, though, the Authority explained that processing the request would require a total of a minimum of 150 hours of staffing time, and it had already used its extension of time to actively consult with the Applicant on whether the request could be narrowed. No further extensions of time were available under section 15(1)(b). Based on the Authority's assessment, it would have required the Authority to devote a minimum of 25

⁷ See, for example, The Royal Gazette, '[Pilot's mayday call amid airport bomb threat](#)' (7 May 2024); or '[Lessons learnt after air traffic communications failure](#)' (18 August 2024).

⁸ Regulation 9(1) stipulates that the information officer shall send written communication to the applicant: (a) explaining how the request is likely to cause a substantial and unreasonable interference with or disruption of other work; and (b) inviting consultation with a view to narrowing the request.

⁹ An extension of time may be available to lessen the substantial burden of processing a PATI request by spreading out the required hours over a 12-week period rather than a 6-week period. See [Decision 03/2018, Department of Health](#), paragraph 42.

hours of staff time a week for six weeks to provide a substantive response to the PATI request. This constitutes a substantial disruption, considering the nature and size of the Authority as well as the number, type and volume of the responsive records.¹⁰

The nature and size of the Authority

58. The Information Commissioner accepts the Authority's estimate of the number of individuals available to process the request, described in paragraph 40 above. Losing approximately 16% of its full-time senior workforce for an extended time would cause a disruption to the Authority's work in several administrative and regulatory areas. This impact is also unreasonable when options existed to further narrow a broad request.

The number, type and volume of responsive records

59. The Authority identified the number, type and volume of responsive records. Although the Applicant sought more information, the Authority provided sufficient details to establish that processing the request would be burdensome within the meaning of section 16(1)(c). For example, although the Authority did not identify the exact number of pages contained within each of the estimated 22 reports, it did explain that report in this context was considered 'a formal record of the proceedings of a meeting or session' and described the heightened security and technical nature of the reports. It also described in detail the audit and inspection reports that totalled 245 pages of safety data considered to be highly sensitive under the Chicago Convention.
60. The Authority also explained that there would be a significant number of third parties whose information would need to be assessed for disclosure and potential third-party notices if it was determined that third-party information would be subject to disclosure.

The nature of the records that would need to be examined

61. The Authority identified the number and nature of the responsive records. The Authority explained that there were relevant exemptions within the PATI Act that would need to be considered and applied in the processing of the PATI request. The Information Commissioner accepts the fact that the records would contain exempt material. The Information Commissioner further accepts that the processing and removal of the exempted material would take too much effort and time away from the Authority's other work.

¹⁰ See, for example, footnote 4 of [Decision 03/2018](#) which shows examples when the Irish Information Commissioner found that a substantial and unreasonable interference or disruption arose when a number of staff are diverted from existing duties for multiple weeks on a full-time basis.

62. The Information Commissioner is satisfied that fully processing the request would have caused a substantial and unreasonable interference with or disruption to the public authority's other work.

Conclusion

63. The Information Commissioner is satisfied that the Authority was justified in relying on section 16(1)(c) to administratively deny the PATI request.

Decision

The Information Commissioner finds that the Bermuda Civil Aviation Authority (**Authority**) was justified in relying on section 16(1)(c) to administratively deny the request made under the Public Access to Information (**PATI**) Act 2010, because to fully process the request would create a substantial and unreasonable interference with or disruption to the Authority's other work.

In accordance with section 48 of the PATI Act, the Information Commissioner upholds the Authority's internal review decision and does not require it to take any further action with respect to this PATI request.

Judicial Review

The Applicant, the Bermuda Civil Aviation Authority, or any person aggrieved by this Decision has the right to seek and apply for judicial review to the Supreme Court 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
29 November 2024

Appendix: Relevant statutory provisions

Public Access to Information Act 2010

Refusal of request on administrative grounds

- 16 (1) A public authority may refuse to grant a request if—
- ...
- (c) in the opinion of the head of the authority, granting the request would, by reason of the number or nature of the records requested, require the retrieval and examination of records of such kind as to cause a substantial and unreasonable interference with or disruption of the other work of the public authority;
- ...
- (2) A public authority shall not refuse to grant a request under subsection (1)(b) or (c), unless the authority has assisted, or offered to assist, the requester to amend the request in a manner such that it no longer falls under those provisions.

Public Access to Information Regulations 2014

Unreasonable interference or disruption of other work

- 9 (1) Before a public authority makes a decision to refuse access under section 16(1)(c) of the Act . . . the information officer shall send written communication to the applicant—
- (a) explaining how the request is likely to cause a substantial and unreasonable interference with or disruption of other work; and
- (b) inviting consultation with a view to narrowing the request.
- (2) The information officer shall make a determination on the criteria for refusal in section 16(1)(c) of the Act on a case by case basis and for this purpose—
- (a) the resources to be considered are the existing resources of the public authority reasonably required to process the request consistent with attendance to other priorities including—
- (i) identifying, locating or collating the records within the public authority's filing systems; and
- (ii) deciding whether to grant, refuse or defer access to the records or edited copies including resources to be used in examining the records, consulting with any person or body, making copies (or edited copies) of the records, notifying the applicant of any interim or final decision on the request and any other matters; and
- (b) the types of factors which shall be considered to determine whether the

interference with or disruption of the other work would be unreasonable include—

- (i) the nature and size of the public authority;
- (ii) the number, type and volume of records falling within the request; and
- (iii) the time involved in fully processing the request.

...

**Information Commissioner for Bermuda
Maxwell Roberts Building
4th Floor
One Church Street
Hamilton, HM 11
ico.bm
441-543-3700**