

## Decision Notice

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### Decision 35/2024: The Cabinet Office Headquarters

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**Government spending on PATI: failure to decide within statutory timeframe**

**Reference no: 2024075**

**Decision date: 29 November 2024**

## Summary

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On 19 June 2024, the Applicant asked the Cabinet Office Headquarters (**Cabinet Office**) for records related to government spending on a specific PATI request and PATI consultants. The Information Commissioner has found that the Cabinet Office 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 Information Commissioner has ordered the Cabinet Office to comply with the requirement to issue a decision on the Applicant's request for an internal review on or before **Friday, 3 January 2024**.

## 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 25 September 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 Cabinet Office.
31 July 2024	The statutory deadline passed for the Cabinet Office to issue an initial decision, i.e. within six weeks of the PATI request date.
14 August 2024	The Applicant made a timely request for the Head of Authority to conduct an internal review.
24 September 2024	The Cabinet Office issued an "interim" decision to the Applicant.
25 September 2024	The statutory deadline passed for the Cabinet Office to issue an internal review decision, i.e. within six weeks of its receipt of the Applicant's request for one.

25 September 2024	The Applicant requested an independent review by the Information Commissioner.
11 October 2024	The ICO notified the Cabinet Office of this application for review and invited its comments by 25 October 2024.
25 October 2024	The Cabinet Office made submissions.
30 October 2024	The ICO responded and encouraged the Cabinet Office to issue its internal review decision by 6 November 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 August 2024, the Applicant requested an internal review by the Head of Authority for the Cabinet Office, who for purposes under the PATI Act is the Secretary to the Cabinet Office.
5. On 24 September 2024, the Cabinet Office issued an "interim" decision to the Applicant, rather than an internal review decision which was due by 25 September 2024. The PATI Act does not provide for the issuance of an "interim" decision.
6. On 25 September 2024, the Applicant requested an independent review by the Information Commissioner of the Cabinet Office's alleged failure to issue an internal review decision.
7. By letter dated 11 October 2024, the ICO invited the Cabinet Office to make submissions on this review, as the Information Commissioner is required to do under section 47(4) of the PATI Act.
8. On 25 October 2024, the Cabinet Office made submissions, providing an update on its progress and inquiring on what further action was required.

9. On 30 October 2024, the ICO responded to the above submissions and encouraged the Cabinet Office to issue its internal review decision to the Applicant by 6 November 2024.
10. It is a matter of fact that the Cabinet Office did not provide the Applicant with an internal review decision within the statutory timeframe. The Information Commissioner is satisfied that the Cabinet Office failed to comply with section 43(2) of the PATI Act and now orders the Cabinet Office to issue an internal review decision. The Cabinet Office may also wish to consider apologising to the Applicant.

## Decision

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The Information Commissioner finds that the Cabinet Office 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 Act 2010. As set forth in the accompanying Order, the Information Commissioner orders the Cabinet Office 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 Information Commissioner's Office, on or before **Friday, 3 January 2024**.

## Judicial Review

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The Applicant, the Cabinet Office Headquarters or 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.

## 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 Cabinet Office Headquarters 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  
29 November 2024

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