

Decision Notice

Decision 05/2025: The Cabinet Office Headquarters

Cyberattack reports: failure to decide within statutory timeframe

Reference no: 2024085

Decision date: 11 February 2025

Summary

On 12 September 2024, the Applicant asked the Cabinet Office Headquarters (**Cabinet Office**) for a report on the 2023 cybersecurity attack delivered to Cabinet Office on 7 November 2023, along with any other reports about the cybersecurity attack and any communications regarding the formation of a joint select committee to investigate the cybersecurity attack. The Information Commissioner has found that the Cabinet Office 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 Cabinet Office to comply with the requirement to issue a decision on the Applicant's request for an internal review on or before **Tuesday, 11 March 2025**.

Background

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 January 2025. 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
12 September 2024	The Applicant made a written PATI request to the Cabinet Office Headquarters (Cabinet Office).
24 October 2024	The statutory deadline passed for the Cabinet Office to issue an initial decision, i.e. within six weeks of the PATI request date.
7 November 2024	The Applicant made a timely request for the Cabinet Office's Head of Authority to conduct an internal review of the initial decision.

19 December 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 on 7 November 2024.
7 January 2025	The Applicant requested an independent review by the Information Commissioner.
15 January 2025	The ICO notified the Cabinet Office of this application for review and invited its comments. The ICO did not receive any submissions from the Cabinet Office.

Information Commissioner's analysis and findings

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 7 November 2024, the Applicant requested an internal review by the Cabinet Office's Head of Authority, who for purposes under the PATI Act is the Cabinet Secretary of the Cabinet Office. The Applicant did not receive an internal review decision by 19 December 2024.
5. On 7 January 2025, the Applicant requested an independent review by the Information Commissioner of the Cabinet Office's alleged failure to issue an internal review decision.
6. On 15 January 2025, 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. The Cabinet Office did not make submissions to the ICO.
7. 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

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 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 Cabinet Office 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, 11 March 2025**.

Judicial Review

Should the Applicant, the Cabinet Office Headquarters, 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

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
11 February 2025

**Information Commissioner for Bermuda
Maxwell Roberts Building
4th Floor
One Church Street
Hamilton, HM11
www.ico.bm
441-543-3700**