

Decision Notice

Decision 10/2025: Department of Corrections

Inmate health, privileges and management records

Reference no: 2021059

Decision date: 28 February 2025

Summary

The Applicant made a request under the Public Access to Information (**PATI**) Act 2010 to the Department of Corrections (**Department**) for records about the health, privileges and management of inmates. The Department denied parts of the PATI request under the exemption for personal information.

During the Information Commissioner's review, the parties engaged in a facilitated resolution, where the Applicant narrowed their request, and the Department agreed to provide non-exempt, anonymised information. Considering the parties' final revised positions, this Decision finds that no issue remains for the Acting Information Commissioner to decide. The Acting Information Commissioner has ordered the Department to disclose the records it agreed to, in accordance with this Decision and accompanying Order, on or before **Friday, 11 April 2025**.

Background

1. As background, this request related to the [Prison Rules 1980 \(Rules\)](#). The Rules, established under Bermuda's [Prison Act 1979](#), set comprehensive guidelines for the management and regulation of prisons, as well as the treatment of incarcerated individuals. The Rules encompass various aspects of prison administration, including inmate privileges, inmate disciplinary procedures, and responsibilities of prison staff.
2. On 11 January 2023, the Applicant made a request under the Public Access to Information (**PATI**) Act 2010 to the Department of Corrections (**Department**), asking for records about the health, privileges and management of inmates. The request sought information referred to in various sections of the Rules, which the Applicant listed in 23 separate items as follows:
 - a. the 'grade list' of inmates given by the Commissioner of Corrections (**Commissioner**) (**item 1**);
 - b. all meetings held by the Commissioner with staff for the purposes of executing her discretion pursuant to section 5(2) of the Rules (**item 2**);
 - c. the system of privileges pertaining to prisoners in Bermuda's correctional facilities, including the name of the Minister who approved the system (**item 3**);
 - d. all monies earned and paid to prisoners in Bermuda's correctional facilities (**item 4**);
 - e. the policy document setting out how monies earned by prisoners was to be paid to prisoners (**item 5**);

- f. the policy document and/or report which the Department relied on to determine whether a cell was “requisite for health” (**item 6**);
- g. the policy document and/or report which the Department relied on to determine whether the bed or bedding provided to inmates was adequate for their warmth and health (**item 7**);
- h. the total number of times the Minister has directed that a personal record of each prisoner be kept (**item 8**);
- i. disclosure to confirm that the Commissioner had complied with the requirement in section 12 of the Rules to separately interview each prisoner upon their reception into prison (**item 9**);
- j. the number of times the Commissioner or Medical Officer has exempted a prisoner from taking a bath upon reception (**item 10**);
- k. disclosure to confirm that the Commissioner has complied with the requirement to ensure that every prisoner shall be examined by the Medical Officer (**item 11**);
- l. disclosure to confirm that the Commissioner has complied with the requirement to ensure that every prisoner receives a thorough explanation of the Rules and any other administrative regulations or orders (**item 12**);
- m. the total number of times the Commissioner has directed that a prisoner be taken to any place outside the prison (not including Court or to the hospital) (**item 13**);
- n. disclosure to confirm the Commissioner has complied with the requirement to interview every prisoner prior to being released (**item 14**);
- o. the death record of prisoners that was required to be kept (**item 15**);
- p. the classification of prisoners (**item 16**);
- q. the notes for the daily visits conducted by the Commissioner (**item 17**);
- r. the total number of occasions when the Commissioner has ordered a prisoner to be segregated (**item 18**);
- s. disclosure of the ‘nominated officer’ referred to in section 33 of the Rules (**item 19**);
- t. the total number of investigations and/or reports conducted by the ‘nominated officer’ and/or referred to the Commissioner (**item 20**);
- u. the rates prescribed by the Minister for paying prisoners (**item 21**);

- v. all educational programmes made available within prisons (**item 22**); and
 - w. the annual diets for prisoners approved by the Director of the Department of Health as well as the total expenditure and annual budget spent on prison food (**item 23**).
3. The Department did not issue an initial decision.
 4. On 30 March 2023, the Applicant asked for an internal review. The Department did not issue an internal review decision by the statutory deadline. On 15 May 2023, the Applicant sought an independent review by the Information Commissioner of the Department's failure to decide.¹ In the course of that review, on 10 November 2023, the Department issued an out-of-time initial decision refusing items 1, 4, 13, 15 and 16 under section 23 (personal information). The Department indicated that the remaining items required extensive research, and a further response would be provided by 8 December 2023.
 5. On 13 December 2023, the Department issued an internal review decision by the head of authority, affirming the Department's refusal of the PATI request under section 23.
 6. On 13 December 2023, the Applicant made a timely application for an independent review by the Information Commissioner, challenging the Department's reliance on section 23.

Investigation summary

7. The ICO accepted the application as valid on 3 January 2024, 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 issue the Applicant wanted the Information Commissioner to review.
8. During validation, the Information Commissioner decided that early resolution under section 46 of the PATI Act was not appropriate for this application, because examining the withheld records was required to evaluate the public authority's reliance on the provision.
9. The ICO notified the Department of the valid application on 24 January 2024 and asked for the responsive records. On 28 and 29 March 2024, the Department submitted the records for this review.

¹ See [Decision 11/2023](#), [Department of Corrections](#), for a 'failure to decide' review, issued on 28 June 2023.

10. During facilitated resolution, the Applicant agreed to no longer challenge the Department's response on items 2, 5, 8, 9, 10, 14, 15, 16, 17 and 19. The Applicant also narrowed the timeframe for items 3, 6, 7, 18, 20, 21 and 23 and withdrew their request seeking any personal information for items 4, 11 and 13.
11. On 20 May 2024, the Applicant further narrowed item 13 to obtain the Department's records disclosing a specified inmate's removal from the facility and delivery to the Somerset Police Station. The Applicant indicated that they were not seeking public disclosure of the inmate's name.
12. As required by section 47(4) of the PATI Act, the ICO invited the parties to make representations. The Department made verbal submissions on 24 September 2024, which were summarised in the ICO's letter of 27 September 2024. The Applicant did not make formal submissions but shared relevant information during telephone discussions with the ICO on 23 April 2024 and 27 January 2025.

Facilitated resolution

13. During this review, the ICO facilitated separate discussions with the Applicant and the Department seeking to fully resolve or narrow the issues under review.

Records did not exist

14. As noted in paragraph 12, on 24 September 2024, the ICO had a telephone discussion with the Department's Information Officer (whose substantive post was department head as the Commissioner of Corrections), where the Department submitted that records did not exist for items 3, 6 and 7.
15. In respect of item 3, the Department submitted that the Department did not currently have a policy in place guiding the systems of privileges. The Department submitted that all privileges were outlined in the Rules. The Department further explained that the Department was moving towards an inmate-earned privilege model, which was encapsulated in a draft policy currently held by the Department. The Applicant expressly confirmed to the ICO that they did not challenge the Department's position on item 3.
16. In respect of item 6, the Department explained that the Department did not currently have a policy in place for determining whether an inmate's cell was fit for health purposes. The Department submitted that the staff were responsible for checking the cells. The Department stated that the policy in place referred to the overall health inspections for the institution. The Applicant expressly confirmed to the ICO that they

did not challenge this and did request disclosure of the current policy held by the Department.

17. In respect of item 7, the Department explained that there was no actual policy or document referring specifically to bedding requirements. The Department explained that the Department would purchase bedding from a company that supplied industrial bedding for institutions such as jails and hospitals. The Applicant expressly confirmed to the ICO that they accepted this position and requested documentation showing the actual bedding being used.

Partial disclosure

18. Despite staff shortages, the Department has agreed to release documents and numerical data for items 1, 4, 11, 12, 18, 20, 21 and 23 to the Applicant. The Department has also agreed to provide the Applicant with disclosures relating to the educational programmes made available to inmates for item 22.
19. On 27 January 2025, the Applicant expressly agreed to accept the above data and other records.

Acting Information Commissioner's analysis and findings

20. The Acting Information Commissioner has considered all relevant evidence, being satisfied that no matter of relevance has been overlooked.
21. The Acting Information Commissioner has noted the Applicant's attempt to narrow item 13 of their PATI request to seeking details related to one specified inmate. Such information, however, would remain personally identifying, and would be improper for a public disclosure under the PATI Act.
22. Given the parties' revised positions and resolution of the issues under review as described above, the Acting Information Commissioner finds that no issue remains for her to consider in this Decision.

Decision

The Acting Information Commissioner finds that the Department of Corrections (**Department**) has agreed to provide all non-exempt information in response to the remaining parts of the request as narrowed during this independent review, leaving no matter to be decided. In accordance with section 48 of the Public Access to Information Act 2010, the Acting Information Commissioner annuls the Department's decisions on items 1, 4, 6, 7, 11, 12, 18, 20, 21, 22 and 23 of the Applicant's narrowed PATI request and orders the Department to re-process these items by disclosing non-exempt, anonymised data and other non-exempt responsive records as agreed through the Information Commissioner's Office's facilitated resolution, in accordance with this Decision and its accompanying Order, on or before **Friday, 11 April 2025**.

Judicial Review

The Applicant, the Department of Corrections, 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.

Enforcement

This Decision has been filed with the Supreme Court, in accordance with section 48(3) of the PATI Act. If the Department of Corrections 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.

LaKai Dill
Acting Information Commissioner
28 February 2025

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