

## Decision Notice

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### Decision 12/2025: Customs Department

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**Correspondence related to the importation of goods: failure to decide within statutory timeframe**

**Reference no:** 2025009

**Decision date:** 2 April 2025

## Summary

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On 21 November 2024, the Applicant's Public Access to Information (**PATI**) request, for correspondence related to the importation of goods, was transferred to the Customs Department (**Department**). The Acting Information Commissioner has found that the Department failed to decide the Applicant's request for an internal review within the statutory timeframe set forth by the PATI Act 2010. During the Information Commissioner's review, the Department issued an internal review decision to the Applicant. The Acting Information Commissioner has not required further action in respect of this Decision.

## 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 20 February 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
10 October 2024	The Applicant made a written PATI request to the Ministry of Health Headquarters.
11 October 2024	The Ministry of Health Headquarters forwarded the PATI request to the Department of Health.
21 November 2024	The Department of Health transferred the PATI request to the Customs Department ( <b>Department</b> ).
2 January 2025	The statutory deadline passed for the Department to issue an initial decision, i.e. within six weeks of the date the Department received the transferred PATI request.
8 January 2025	The Applicant made a timely request for the Head of Authority to conduct an internal review.

19 February 2025	The statutory deadline passed for the Department to issue an internal review decision, i.e. within six weeks of its receipt of the Applicant's request for one.
20 February 2025	The Applicant requested an independent review by the Information Commissioner.
11 March 2025	The ICO notified the Department of this application for review and invited its comments.
26 March 2025	The Department issued the Head of Authority's internal review decision to the Applicant.

## **Acting 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 8 January 2025, the Applicant requested an internal review by the Department's Head of Authority, who for purposes under the PATI Act is the Permanent Secretary for the Ministry of National Security. The Applicant did not receive an internal review decision by 19 February 2025.
5. On 20 February 2025, the Applicant requested an independent review by the Information Commissioner of the Department's alleged failure to issue an internal review decision.
6. By letter dated 11 March 2025, the ICO invited the Department to make submissions on this review, as the Information Commissioner is required to do under section 47(4) of the PATI Act. In its verbal submissions, the Department explained that there was some confusion regarding the transfer and the date on which the Department received the PATI request.

7. It is a matter of fact that the Department did not provide the Applicant with an internal review decision within the statutory timeframe. The Acting Information Commissioner is satisfied that the Department failed to comply with section 43(2) of the PATI Act.
8. During this review, on 26 March 2025, the Head of Authority for the Department issued an internal review decision to the Applicant, copied to the ICO. In light of this, the Acting Information Commissioner is satisfied that the Department has issued a valid decision under section 43 of the PATI Act, albeit out of time. The Acting Information Commissioner does not require the Department's further action on the Applicant's request for an internal review.
9. The Acting Information Commissioner notes the Applicant's submission that whilst they were satisfied with the substance of the internal review decision, they were dissatisfied with the process they experienced to receive a response to their PATI request, almost six months after they had originally submitted it to the Ministry of Health Headquarters and four months after it was received by the Department.

## Decision

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The Acting Information Commissioner finds that the Customs Department (**Department**) 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. Since the Department has issued an internal review decision during this review, the Acting Information Commissioner does not require the Department to take any future action in respect of this Decision.

## Judicial Review

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The Applicant, the Customs Department and 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.

LaKai Dill  
Acting Information Commissioner  
2 April 2025

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