

Decision Notice

Decision 13/2025: Department of Health

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

Reference no: 2025010

Decision date: 2 May 2025

Summary

On 10 October 2024, the Applicant asked the Department of Health (**Department**) for correspondence related to the importation of goods. The Information Commissioner has found that the Department failed to decide the Applicant's request for an internal review within the statutory timeframe set by the Public Access to Information Act 2010.

The Information Commissioner has ordered the Department to comply with the requirement to issue a decision on the Applicant's request for an internal review on or before **Friday, 30 May 2025**.

Background and Investigation

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. It addresses a public authority's basic obligation to conduct an internal review and notify the requester of its decision within the six-week statutory timeframe, not whether a public authority has properly denied access to a record.
2. On 10 October 2024, the Applicant made a written PATI request to the Department of Health (**Department**) for correspondence related to the importation of goods.
3. On 2 January 2025, the Department issued an initial decision to the Applicant, after having extended the time to issue the decision.
4. On 9 January 2025, the Applicant made a timely request for the Head of Authority of the Department, the Permanent Secretary, to conduct an internal review of the Department's initial decision.
5. The Applicant did not receive an internal review decision from the Department by the six-week deadline of 20 February 2025.
6. On 26 February 2025, the Applicant requested that the Information Commissioner conduct a review of the Department's failure to decide within the six-week statutory time limit.
7. The application for the Information Commissioner's Review was assessed as valid as it met the criteria of section 45(1) of the PATI Act.

8. The Information Commissioner decided not to attempt to resolve the matter under section 46 of the PATI Act.
9. A review was commenced under section 47 of the PATI Act. As required by section 47(4) of the PATI Act, on 11 March 2025, the ICO notified the Department of the valid application and invited the Department to make submissions.
10. The ICO did not receive any submissions from the Department. However, the ICO understood that the Head of Authority was confirmed in post during this review and the ICO investigator made efforts to have the Department issue its internal review decision ahead of the issuance of this Information Commissioner's Decision. By the date of this Decision, no internal review decision has been issued by the Department.

Analysis and findings

Internal Review Decision

11. Section 43 of the PATI Act requires the head of a public authority to conduct an internal review of any decision made by the authority with respect to a PATI request or of any failure by the authority to take any action that it is required to take under the PATI Act.¹ The head of authority must 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. This must be completed by the head of a public authority within six weeks of receiving a request for an internal review.
12. It is a matter of fact that the Department did not provide the Applicant with an internal review decision within six weeks of receiving the Applicant's request for one. Additionally, the Department did not issue an internal review decision during the duration of this review.
13. The Information Commissioner finds that the Department failed to comply with section 43(2) of the PATI Act and now orders the Department to issue an internal review decision.

¹ Section 42 of the PATI Act sets out the scope of an internal review.

Decision

The Information Commissioner finds that the Department of Health (**Department**) 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 Act 2010.

As set forth in the accompanying Order, and in accordance with section 43 of the PATI Act, the Information Commissioner orders the Department 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 **Friday, 30 May 2025**.

Judicial Review

The Applicant, the Department of Health and any other person aggrieved by this Decision have the right to apply to the Supreme Court for judicial 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

This Decision has been filed with the Supreme Court, according to section 48(3) of the PATI Act. If the Department of Health 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.

Jason Outerbridge
Information Commissioner
2 May 2025

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