

Decision Notice

Decision 02/2026: Department of Planning

Records related to a parcel of land: failure to decide within statutory timeframe

Review reference no.: 2026004

Decision date: 3 March 2026

Summary

On 7 August 2025, the Applicant asked the Department of Planning (**Department**) for records related to a parcel of land. The Acting Senior Investigation Officer¹ has found that the Department failed to comply with the requirements for an internal review within the six-week statutory timeframe set by section 43(2) of the Public Access to Information Act 2010.

Background and investigation

1. This Decision is for a ‘failure to decide’ application for an external review by the Information Commissioner under Part 6 of the Public Access to Information (**PATI**) Act 2010. This Decision by the Acting Senior Investigation Officer 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 7 August 2025, the Applicant made a written PATI request to the Department of Planning (**Department**) for records related to a parcel of land.
3. On 9 December 2025, the Department issued a final response for its initial decision to the Applicant, following disclosures made between September and November 2025.
4. On 15 December 2025, the Applicant made a timely request for the Head of Public Authority for the Department to conduct an internal review of the Department’s initial decision. The six-week internal review deadline was 26 January 2026.
5. On 27 January 2026, the Applicant requested that the Information Commissioner conduct a review of the Department’s failure to decide within the six-week statutory time limit.
6. The application for the Information Commissioner’s review was assessed as valid, as it met the criteria in section 45(1) of the PATI Act.
7. The Information Commissioner decided not to attempt to resolve the matter under section 46 of the PATI Act, because a failure to decide by a public authority, by its nature, can be terminal to the rights of a requester and should be reviewed under section 47.
8. A review was commenced under section 47 of the PATI Act, by notice to the Department on 10 February 2026.

¹ The Acting Senior Investigation Officer issues this Decision under delegated authority from the Information Commissioner, per section 52A of the PATI Act. For more details, a Schedule of Delegation is available on ico.bm.

9. As required by section 47(4) of the PATI Act, the Office of Information Commissioner (**ICO**) invited the Department to make representations addressing whether the Department had, in fact, conducted an internal review and issued an internal review decision. At the same time, the ICO strongly encouraged the Head of Public Authority to conduct an internal review and issue their decision to the Applicant before the deadline for responding to the ICO, if they had not already done so.
10. The ICO received submissions from the Department on 24 February 2026 acknowledging that they had not met the statutory timeframe of six weeks to carry out the requirements of section 43(2).
11. On 24 February 2026, the Head of Public Authority for the Department, the Permanent Secretary for the Ministry for the Cabinet Office and Digital Innovation, issued an internal review decision to the Applicant and provided the ICO with a copy. Analysis and findings

Internal review decision

12. Section 43 of the PATI Act requires the head of 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.²
13. To fully comply with section 43(2), the head of public authority must complete its internal review and notify the applicant of the internal review decision, the reasons for the decision, and the applicant's right to seek an external review by the Information Commissioner. This must be completed by the head of public authority within six weeks of receiving a request for an internal review.
14. It is a matter of fact that the Department did not comply with section 43(2) because it had not completed an internal review and had not notified the Applicant of the decision, the reasons for the decision and of the Applicant's right to seek an external review by the Information Commissioner, by 26 January 2026. That date was six weeks after the Department received the Applicant's request for an internal review.
15. The Acting Senior Investigation Officer finds that the Department failed to comply with the requirements for an internal review within the six-week statutory timeframe set by section 43(2) of the PATI Act.

² Section 41 of the PATI Act sets out the scope of an internal review. Section 42 sets the time limit to apply for an internal review.

16. The Acting Senior Investigation Officer acknowledges that the Department took corrective measures during the investigation to bring itself into compliance with the requirements of section 43(2) by providing the Applicant with its internal review decision on 24 February 2026.
17. Given that the Department has issued an internal review decision before this Decision was issued, the Information Commissioner does not need to order the Department to issue an internal review decision.

Decision

The Acting Senior Investigation Officer finds that the Department of Planning (**Department**) failed to comply with the requirements for an internal review within the six-week statutory deadline set by section 43(2) of the Public Access to Information Act 2010.

Since the Department has issued an internal review decision during this review, the Department is not required to take any further action.

Judicial review

The Applicant, the Department of Planning 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.



Decided by Kentisha Tweed, Acting Senior Investigation Officer, 3 March 2026

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