



MONTHLY ROUNDUP

Volume 1, Issue 2

February 2018

Welcome!

The Information Commissioner's Office ("ICO or The Office") marked the beginning of 2018 with several firsts. The Information Commissioner ("IC or The Commissioner") issued her first decision requiring the disclosure of records in Decision 01/2018 *Bermuda Tourism Authority*. Our Office also completed our work with Mr. Sean Murray, Director of Research and Quality Assurance at the Office of the Information and Privacy Commissioner in Newfoundland and Labrador. While the IC and ICO staff have visited other ICOs, this was our first opportunity to have a colleague work with us in our office for an extended time. Mr. Murray assisted our investigators to address our backlog of cases from the first two years.

Inside this Monthly Roundup, you will find a summary of last month's decision, and highlights of Guidances that we have published. As always, we hope this information serves as a helpful resource for all involved in PATI work.

Requests to receive the ICO's Monthly Roundup or to be removed from this email list can be sent to info@ico.bm.

"Official information that enhances people's capacity to exercise their rights belongs in the public domain. This information must be accessible and understandable."

*United Nations
Development
Programme,
Access Position
Paper*

Let Us Know Your Thoughts . . .

If you have suggestions of topics you would like the ICO to address in guidance or other outreach, don't hesitate to reach out! We'd love to hear from you!

Information Commissioner's Office

Valerie T. Scott Building

60 Reid Street

Hamilton HM 12

441-294-9181

info@ico.bm

www.ico.bm

www.facebook.com/icobermuda

Decision Issued

In January, the Commissioner issued her first decision ordering a public authority to disclose records. Her decisions can be found at www.ico.bm. A decision issued by the IC is important because it shows how the Commissioner has interpreted the provisions of the PATI Act, and this can serve as guidance going forward.

Salaries, incentives, public spending: How do you balance the public interest? The IC considered this question in [Decision 01/2018](#) *Bermuda Tourism Authority*. The Commissioner found that the actual salaries of the employees of Bermuda Tourism Authority (BTA) are personal information. Disclosure of the individual salary figures would be an unjustified intrusion into employees' privacy - especially in our small jurisdiction. But public spending played a role in balancing the public interest test. To meet the important public interest in transparency in public spending, the IC ordered BTA to disclose its salary and incentive figures in narrower bands. The public needed more detailed information to understand BTA's spending decisions.

Decision 01/2018 is also a reminder that under the PATI Act, information about a discretionary financial benefit from a public authority is not personal information.

BTA has complied with the IC's requirements. The disclosed record, and additional proactive disclosures about BTA's compensation spending, can be found [here](#).

ICO Guidances

Did you know the ICO publishes guidances on the exemptions and key provisions in the PATI Act? Public authorities and requesters can use the guidances to understand the tests for different exemptions and provision in the PATI Act.

To use the guidances, look at the table of contents to find the exemption you are dealing with, such as the exemption for commercial value. You'll find 3-4 pages of explanations, examples, and questions to ask for the specific exemption. To date, we have published seven guidances that can be found [here](#):

- The public interest test (section 21)
- Health or safety of individual exemption (section 22)
- Commercial information exemptions (section 25)
- Information received in confidence exemptions (section 26)
- Disclosure prohibited by other legislation (section 37)
- Timeframes for providing access to records: section 14 and Part 2
- Information Statements: Criteria for Compliance Assessment

Increase in Invalid Applications to Information Commissioner

This January, for the first time since 2015, we received an increase in applications for review by the Commissioner that were invalid. The applicants were coming to us too early.

In three applications involving one public authority, the Applicant had not made a request to for an internal review. The PATI Act requires that a dissatisfied requester must first ask the public authority for an internal review. The internal review process is an important opportunity for the public authority to improve its response to the request or clarify any misunderstandings.

REMEMBER:

To make a valid application for review by the Information Commissioner, you must:

- **Ask** for an internal review
- **Receive** the decision (or wait 6 weeks for the deadline to pass)
- **Make** a written request to the ICO (an email to info@ico.bm is fine!)



Sean Murray, Director of Research and Quality Assurance at the Office of the Information and Privacy Commissioner in Newfoundland and Labrador and Information Commissioner Gitanjali Gutierrez

ICO Statistics as of 31 January 2018

Total
Applications: 67

Pending
Investigations: 36

Decisions: 11

Resolved: 5

Invalid: 10