



Government of Bermuda
Ministry of Health
OFFICE OF THE PERMANENT SECRETARY

30th July 2018

PATI Request Number: 509

BY EMAIL TO: sstrangeways@royalgazette.com

Ms Samantha Strangeways
The Royal Gazette
2 Par-la-ville Road
Hamilton HM 08

Dear Ms Strangeways,

Re: Public Access to Information Act 2010 Internal Review of Request #509

The purpose of this letter is to provide a decision to your request for an internal review of the Ministry of Health's decision to grant access to part of the records requested under the Public Access to Information Act 2010 (the Act).

Summary

As the Head of the public authority, I am authorised under s.43 of the Act to conduct an internal review of decisions made by the Ministry of Health, in relation to PATI requests.

You requested access to records relating to the Brown Darrell Clinic and Bermuda Healthcare Services settlement and the Judicial review of the BHB (Hospital Fees) Amendment Regulations 2017 on February 14th, 2018. Specifically you sought access to:

- The agreement reached on December 8, 2017 between the Ministry of Health and the Brown Darrell Clinic and Bermuda Healthcare Services regarding payments of \$120,000 and \$480,000 respectively.
- All communications concerning that agreement.
- Records showing how the amounts were calculated.
- The letter received by the Ministry "before action" in October 2017 pertaining to judicial review of the BHB (Hospital Fees) Amendment Regulations 2017. The response and any further communications.

You were advised on May 10th, 2018 of the decision to grant access in part, for which you requested an internal review of that decision on June 20th, 2018.

Decision and reasons for decision

After a thorough review of the records associated with this request, and discussions with Legal Counsel at the Attorney Generals Chambers, it is my decision to uphold the decision of the information officer.

The agreement between the Ministry of Health and the Brown Darrell Clinic and Bermuda Healthcare Services as well as “the letter before action” are both confidential documents drafted by the Attorney General’s (AG’s) Chambers. For this reason the request for these documents must be denied based on s.4(b)(vi) of the Act, which states that the Act does not apply to records “created by” the AG’s Chambers “in the course of carrying out their functions”. Similarly all correspondence and communications relating to the agreement and letter before action held by the AG’s Chambers were redacted and withheld on the same grounds as the Act does not apply to records “obtained” by the AG’s Chambers in the course of carrying out their functions. Legal and professional privilege also apply to these records in accordance with s.35(3) of the Act.

Records identified within this PATI request also contained records produced by and for the Bermuda Health Council. Such records fall under the public authority of the Bermuda Health Council for release and the Bermuda Health Council Act’s non-disclosure clause. It is for this reason I agree with the decision to withhold and redact these documents under s.26(1)(b) of the Act as disclosure is prohibited by other legislation.

I agree with the redaction of personal emails and contact information from the correspondence provided using the personal information exemption s.23. In these instances there is no public interest for their release.

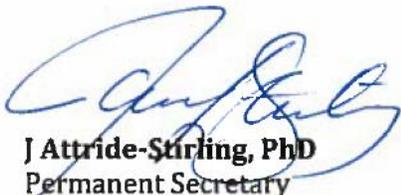
Some of the redacted records provided included excerpts and references to Cabinet conclusions exempt under s.27 of the Act. I agree with this assessment.

Your review rights

If you are dissatisfied with my decision, you may apply to the Information Commissioner for review. An application for review by the Information Commissioner must be made in writing within six weeks of the date of this letter to the following address:

Information Commissioner’s Office
Valerie T. Scott Building
60 Reid Street
Hamilton, HM 12
www.ico.bm
441-294-9181

Yours sincerely,



J Attride-Stirling, PhD
Permanent Secretary