

ICO's RESPONSE TO MEDIA QUERY FROM THE ROYAL GAZETTE [18 June 2026]

The internal review process is a critical statutory safeguard. It affords a public authority a final opportunity to revisit its initial handling of a PATI request before the Information Commissioner conducts an external and independent review. This stage is intended to be a 'fresh look' at the disclosability of records, often resulting in additional disclosure without further escalation.

A public authority's failure to issue an internal review decision within the mandatory six-week period, as set by section 43(2) of the Public Access to Information Act 2010 (PATI Act), is a serious statutory breach.

Whilst administrative and resource constraints may exist across public authorities, responding effectively to PATI requests within the statutory timeframe is mandatory and cannot simply be set aside when challenges arise. The Information Commissioner continues to maintain that "access delayed is access denied". These institutional failures act as a barrier to transparency and can effectively render a requester's rights 'illusory' if deadlines are not strictly monitored.

The ICO notes that these delays often stem from administrative factors such as resource limitations or coordination gaps, rather than overt bad faith by public authorities. However, when authorities remain silent, the information sought often becomes 'stale', losing its relevance and utility for the requester's needs and for timely public transparency.

As a core part of its mandate, the ICO monitors public authorities' PATI compliance and provides guidance to assist public authorities with meeting their statutory obligations under the PATI Act. The ICO also prioritises 'Failure to Decide' or 'FTD' reviews conducted under section 45(1)(b) of the PATI Act, so that the ICO's review process does not unreasonably delay the requester from getting the internal review decision that they are due.

To address recent increases in the number of cases where public authorities are noncompliant with issuing their internal review decisions in time, the ICO instituted a [Summary Procedure](#) for FTD reviews in March 2026. This streamlined approach reduces internal processing times, allowing cases to be concluded with maximum efficiency. Additionally, the Information Commissioner now utilises [delegated authority](#) under section 52A of the PATI Act, empowering authorised ICO officers to issue FTD decisions.

These measures ensure that the ICO remains nimble, innovative and capable of navigating a significantly shifting landscape with limited resources.

While the ICO always recognises public authorities' corrective actions in its decisions, the recent increase in orders compelling heads of public authorities to issue their overdue

internal review decisions signals a need for renewed commitment from public sector leadership. The Information Commissioner remains dedicated to ensuring that the standards of accountability and transparency in Bermuda are not eroded by administrative silence.

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Editor's Notes:

About FTDs: 'Failure to Decide' or 'FTD' reviews are those where a requester has applied for an external review by the Information Commissioner because the head of a public authority has not conducted an internal review, and issued a decision on their review, within the six-week statutory timeframe.

Additional FTD Decision Facts:

The ICO has issued 103 FTD decisions since the PATI Act came into effect (2 are issued but are due to be published next week).

In 2026 there have been 8 FTD decisions; 5 of those 8 decisions required an order; none required judicial enforcement of the order.

About the ICO: The Office of Information Commissioner is an independent public office responsible for promoting the use of, and overseeing compliance with, the Public Access to Information Act 2010. The PATI Act gives the public a right to access records held by public authorities, subject to listed exemptions, exceptions and administrative grounds for denial of access. Individuals who are dissatisfied with the response of a public authority may seek an external review by the Information Commissioner. The Office of Information Commissioner investigates, and decisions and orders by the Information Commissioner are legally binding. The PATI Act is the ICO's governing legislation.

About delegation: The Information Commissioner may delegate in writing to any member of his staff any duty, power or function of the Commissioner, per section 52A of the PATI Act. A Schedule of Delegation is available online at ico.bm. Delegation to staff for issuing decisions for FTD reviews is common among Information Commissioner's Offices in comparable jurisdictions.

More information about the ICO is available at ico.bm.