

4 July 2019

To: All Media

FOR IMMEDIATE RELEASE

Information Commissioner issues Decision 16/2019 Ministry of Legal Affairs Headquarters, Decision 17/2019 Ministry of Finance Headquarters and Decision 18/2019 Department of Immigration

Hamilton, Bermuda. On 26 June 2019, Information Commissioner Gitanjali Gutierrez issued Decision 16/2019 and Decision 17/2019 relating to the Ministry of Legal Affairs Headquarters and the Ministry of Finance Headquarters, respectively.

Decision 16/2019 concerns the Ministry of Legal Affairs Headquarters' failure to conduct an internal review and to issue an internal review decision within the timeframe set forth in section 43(2) of the PATI Act. Since the Ministry of Legal Affairs Headquarters issued an internal review decision during the Information Commissioner's review, the Ministry was not ordered to take further action in relation to the internal review request.

In Decision 17/2019, the Information Commissioner reviewed a decision made by the Ministry of Finance Headquarters on a PATI request for correspondence between the former Finance Minister and the Canadian Commercial Corporation on the airport development agreement. The Information Commissioner found that the Ministry of Finance Headquarters' refusal on the basis that some of the responsive records were already available in public domain, as set out in section 16(1)(f), was not justified. The Information Commissioner emphasised that, before relying on section 16(1)(f), public authorities must first locate all responsive records it holds and identify the information contained in those records. Without locating the records and identifying the information contained in them, public authorities cannot conclude that the information it holds is the same as the information available in the public domain.

A proper reliance on section 16(1)(f) also requires the information sought by a requester to be available in full in the public domain. In this case, the records available in the public domain had been disclosed with redactions under the access to information framework in Canada. In Decision 17/2019, the Information Commissioner held that because the records available in the public domain were redacted, they were not available in full in the public domain for the purposes of section 16(1)(f).

The Information Commissioner further found that the Ministry of Finance Headquarters failed to conduct a reasonable search and ordered it to conduct additional searches.

On 27 June 2019, Acting Information Commissioner Answer Styannes issued Decision 18/2019. The Decision considered the reasonableness of the searches conducted by the Department of Immigration in response to a PATI request for records relating to the Uighurs who arrived in Bermuda in June 2009, and their dependents.

During the Acting Information Commissioner's review, the parties agreed to attempt a facilitated resolution. The Department agreed to conduct additional searches, which were verified by the Information

Commissioner's Office (ICO). The additional searches led to the identification of additional records responsive to the PATI request.

The Department was given the opportunity during the Acting Information Commissioner's review to determine whether the additional responsive records should be disclosed or withheld. The Department provided the Applicant with a new initial decision. As a result, the Department was not required to take further actions by the Acting Information Commissioner.

Full versions of both decisions can be accessed online at www.ico.bm.

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Editor's Notes:

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

Further information about the Information Commissioner's Office is available at www.ico.bm.