



MINISTERIAL STATEMENT

To The House of Assembly

By

The Hon. David Burt, JP, MP
Premier of Bermuda

BETTER MANAGEMENT OF PATI

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Mr. Speaker, the public access to information regime is well known to Honourable Members and the public. It began with the Act passed in 2010 followed by Regulations in 2014.

Mr. Speaker, today the management of requests made under the Act has begun to stretch the administrative capacity of the Information Officers. The result is the mistaken release of information which is rightly exempt under the Act; delays in the processing of requests and Information Officers so burdened with requests that the performance of their core duties suffer.

Mr. Speaker, section 17 of the PATI Regulations of 2014 sets out the 12 specific functions of Information Officers. The duties are considerable and are clearly designed to ensure great care is taken in the management of requests. The demands placed on Information Officers and some departments have so affected their work that some Officers have relinquished the role whilst others have complained about the all-consuming nature of the tasks. It is important to note that both the Act and the Regulations contemplate the administrative burden that can be caused and provide criteria by which requests can be refused where they

would *“cause a substantial and unreasonable interference with or disruption of the other work of the public authority.”*

Mr. Speaker, I am advised that this is seldom invoked by Information Officers or heads of public authorities as the spirit of the Act, namely to encourage access to information, is honoured by the hard working men and women within the Public Service.

However, **Mr. Speaker**, I think it is important to provide Honourable Members and the public with an example of what is sometimes required to fulfill PATI requests.

The Permanent Secretary in the Ministry of Health requested assistance from the Policy & Strategy Section (PSS) to respond to PATI Request #341, a request for records related to inspections, complaints, investigations, safety concerns and accidents involving day care centres and providers. The Ministry of Health had initially denied access under section 16(1)(c) of the Act because fulfilling the request would cause a substantial and unreasonable interference with or disruption of the work of the Ministry.

The internal review decision upheld the denial of access for this same reason and denied access for specific components under exemptions of personal information s23(1), commercial information s25(1)(c), and information received in confidence s26(1)(a). The Ministry of Health believed it had evidence of the volume of time required to garner the relevant documents. However, the Information Commissioner’s Office rejected the Ministry of Health’s decisions; finding that fully processing the request “will not cause a substantial and unreasonable interference or disruption” of the other work of the Ministry. It is important to note that whilst addressing the original request, the information requested was expanded to include an even longer period of time.

Mr. Speaker, I can advise Honourable Members that it took 12 Public Officers almost 400 hours at a cost of over \$20,000 to process this request.

The almost 400 hours required to fulfill this request did not enable the Information Officer alone to handle the request within the time frame required; and the associated duties could not be delegated as there was a shortage of staff. It is for this reason that The Ministry of Health sought the assistance of PSS to facilitate the request. Whether the Ministry devoted an individual or multiple resources to administer this process it would have resulted in a substantial interference with and disruption of the work of the Ministry. **Notably, this was only one request**, and until PSS's assistance was engaged, the Ministry of Health had to suspend its policy/legislative development initiatives as its three Policy Analysts had to be deployed to processing PATI requests.

Mr. Speaker, it was the former Government that abolished the PATI Unit which had previously provided a secretariat-style suite of services in support of PATI. Four posts were abolished and the then Cabinet determined that the Policy & Strategy Section of the Cabinet Office would continue to undertake any functions required to be performed under the PATI Act 2010.

Mr. Speaker, whilst it is not proposed to re-establish the PATI Unit presently, I wish to advise this Honourable House that I have invited the leadership of the Public Service to examine a means by which to re-engage a level of centralized expertise. This will make use of training in PATI management received by officers within the PSS and will provide an additional layer of support to the management of requests under the Act.

Mr. Speaker, it would be remiss of me not to mention a disturbing trend with respect to the use of information pursued and received pursuant to requests

under the Act. I was not in the Legislature when the 2010 Act was passed but it bears repeating that the purpose of the Act is to—

- give the public the right to obtain access to information held by public authorities to the greatest extent possible, subject to exceptions that are in the public interest or for the protection of the rights of others;
- increase transparency, and eliminate unnecessary secrecy, with regard to information held by public authorities;
- increase the accountability of public authorities;
- inform the public about the activities of public authorities, including the manner in which they make decisions; and
- to have more information placed in the public domain as a matter of routine.

Mr. Speaker, those are honourable goals and speak to a modern democracy's need to better engage the people it serves. However, **Mr. Speaker**, there is now a clear culture of weaponizing these objectives to serve political ends and other agendas. The result is an increasing atmosphere of undue caution in the provision of advice to Ministers and a reluctance to commit to writing or any form of permanent record legitimate, contemporaneous views and thinking around critical policies on behalf of the people of Bermuda.

Mr. Speaker, this is dangerous. Legitimate scrutiny will encourage accountability but 'gotcha journalism' or wanton political use of PATI, even by Honourable Members, will yield a shrinking culture of efficient decision making.

This Government is determined to provide a framework for the management of PATI that fully embraces the original intentions of the Act and supports a regime that provides the people of Bermuda with the fullest information about the work done every day in their name and on their behalf.

Thank you, **Mr. Speaker**.