



Access to Information Act 2018 (ATIA)

Appeal Case to the Information Commission, Seychelles

Statement of Recommendations, Findings, Orders, Decisions and Directives as per Part VII, Section 64

Public Body: Department for Immigration and Civil Status

Address: Independence House 1st Floor, Victoria, Mahe

Scope of the Case

1. The requestor Mr. Ralph Amelie, appealed to the Commission on December 5th 2019 against the Department of Immigration's failure to respond to his request.
2. The Commission has considered whether the Department of Immigration has complied with its obligations in relation to the Right of Access at Section 8 and Section 11(1) of the ATIA.

Request and Response

3. On June 5th 2019, the requestor under Section 9 (1) wrote to the Information Officer (IO) and requested information in the following terms: "I would be grateful if you would provide the following":
 - 3.1. Charles Hammond, the CEO of Cable and Wireless Seychelles, including his whole family, received free citizenships, and when, who were his sponsors, on what grounds, and if they were published in the official gazette and nation newspaper.
4. The Information Officer acknowledged the request on June 5th, 2019.
5. The Information Officer failed to provide a reply within 21 days as per Section 11 (1) of the ATIA or it can be considered under Section 14 and interpreted as 'deemed refusal'.
6. The Head of Information Holder (HOIH) was not in office for a long period, the Information Officer was taking the responsibility, acting as the Principal Secretary, and functioning in a dual role as HIOH temporarily, and a direct appeal to the Commission was made in this case.

Orders

7. On December 5th 2019, the Commission ordered the Department of Immigration to provide a right of reply to the requestor.

Directives

8. Pursuant to Section 63 (1)(d) and in conjunction with Section 48 (4)(a and e) of the Access to Information Act, 2018, the Commission orders the Department for Employment to provide a reply to the requestor.

Decision and Conclusion (including any steps ordered)

9. On January 17th 2020, Information Officer provided a reply to the requestor stating that the information is considered as third party Information, which includes personal as well as confidential Information and the third party, did not provide consent for release.
10. Requestor was also informed to apply for review with the Head Of information Holder who was back in office.
11. The requestor did not require for further review in the case.
12. The Commission did not require further steps.
13. The case closed on January 17th 2020.

Reasons for Decision

14. Section 8 of ATIA states that: “subject of this Act, every person has a right to access to information from a public body is the case”
15. Section 11(1) of ATIA states that: “Subject of subsection (2), the Information Officer to whom a request is made under section 9 shall, as soon as reasonably possible, but in any event within 21 days after the request is submitted –
 - (a) Determine whether to grant the request;
 - (b) Notify the requestor of the decision in writing.
16. Section 33 (1) of ATIA states that: “ If an Information Officer is considering a request for access to personal information of a natural third party or commercial or confidential information of a third party, the Information Officer shall take reasonable steps to inform the third party to whom or which the information relates or, where the third party is deceased, the next of kin or legal representative of the third party, in writing of the request as soon as reasonably possible, but in any event within eight days after the request is received.
 - 16.1 Subject to subsection (8), within 10 days of being informed of a request under subsection (1), a third party may — Notice to third parties
 - (a) inform the Information Officer in writing that he or she consents to the release of the information to the requestor; or
 - (b) make a representation to the Information Officer in writing stating why the request for access to the information should not be granted.