

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 February 2017

Public Authority: Wycombe District Council
Address: Queen Victoria Road
High Wycombe
HP11 1BB

Decision (including any steps ordered)

1. The complainant has requested information on Wycombe District Council's Prevent programme. The Council answered some of the questions but considered that information requested in some parts of the request was exempt from disclosure under sections 24 and 31 of the FOIA. It later amended its position and stated information was not held for most of the parts of the request but maintained that the information held for part 7 of the request was exempt under section 41 and 31.
2. The Commissioner's decision is that the Council has complied with section 1 of the FOIA by stating that information is not held for the majority of the request but considers that the Council has not complied with section 1(1) in relation to part 10. She also finds the section 24(1) exemption is engaged in relation to the information that is held for part 7 and the public interest favours maintaining the exemption.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Confirm if information is held for part 10 and provide any recorded information in the scope of the request, subject to the application of any exemptions.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 19 March 2016, the complainant wrote to Wycombe District Council ("the Council") and requested information in the following terms:

"I am writing ... about the Wycombe PREVENT programme. We find there is very little information available to the community about the programme's aims and operations. We certainly have some reservations about the PREVENT programme and its potential targeting of the Muslim community. As far as we are aware, the latest information available to residents on WDC's website is a report written in December 2014.

I would be grateful if you could let me know where I can find information about the programme. For example, are there reports on the programme available to the public and if so where can I find them? I would also be grateful for the following information in line with Freedom of Information (FOI) requests:

- 1) What are the objectives of the Wycombe PREVENT programme?*
 - 2) Can you provide a breakdown of the number of people referred to PREVENT by ethnic origin and religion with WDC?*
 - 3) What defines 'radicalisation' in PREVENT guidance?*
 - 4) Can we have a copy of the delivery plan?*
 - 5) What are the success criteria?*
 - 6) Can you provide data on how successful the programme is against the criteria?*
 - 7) How much funding does WDC get for PREVENT? From what sources?*
 - 8) Who is responsible for running the programme?*
 - 9) What staffing does the Wycombe PREVENT programme have?*
 - 10) How do WDC and the police co-ordinate their efforts; and*
 - 11) How does WDC consult the community on the PREVENT programme?"*
6. The Council responded on 30 March 2016. It stated that it held information within the scope of the request but some of this, namely information in relation to parts 2, 6, 7 and 10, was being withheld from disclosure on the basis of sections 24(1) and 31(1)(a) of the FOIA. For

the remaining parts of the request, the Council either answered the questions or provided the relevant information.

7. The complainant requested an internal review on 9 April 2016. In particular he was dissatisfied with the explanations as to why disclosure of the withheld information would put national security at risk. Additionally he did not feel that the Council had adequately answered part 11 of the request by simply stating there was no requirement to consult locally.
8. Following an internal review the Council wrote to the complainant on 3 May 2016. It stated that it maintained its position that the information it held in relation to parts 2, 6, 7 and 10 was exempt under both section 24 and 31 of the FOIA. For part 11, the Council again stated that it was not required to consult locally and it went on to confirm it did not consult on this issue so no information was held.

Scope of the case

9. The complainant contacted the Commissioner on 11 May 2016 to complain about the way his request for information had been handled.
10. During the course of her investigation, the Council sought to change its position with regard to three of the four parts of the request. For parts 2, 6 and 10 the Council now stated information was not held and this was to be communicated to the complainant.
11. The Commissioner considers the scope of her investigation to be to determine if the Council holds information for parts 2, 6 and 10 of the request and if the Council has correctly applied the provisions of sections 24 and 31 to withhold the information held under parts 7.

Background

12. The Counter-Terrorism & Security Act 2015¹ places a Prevent duty on specified authorities to have "due regard to the need to prevent people from being drawn into terrorism".

¹ <http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted/data.htm>

13. The Council was designated a Prevent Priority Area in 2013 under the Government's Counter Terrorism Strategy, CONTEST². As a result a Prevent Delivery Plan³ was developed with stakeholders. The fundamental aim of this is to safeguard individuals against being drawn into terrorism and violent extremism.
14. The Council's Prevent Delivery Plan states that:

"Prevent has been a sensitive issue to us since the District became embroiled in the plot to explode liquid bombs on airliners in 2006, and the resultant policy activity in the area linked to a major investigation. Unfortunately, it became clear violent extremism was a cause for concern on the District as a local resident was subsequently tried and found guilty of conspiracy to carry out terrorist acts and received a life sentence."

Reasons for decision

Section 1 – information held

15. Section 1(1) of the FOIA says that anyone making a request for information to a public authority is entitled to be informed by the authority whether it holds the requested information and, if it does, to have that information communicated to him or her.
16. The Council has stated that it does not hold information for parts 2, 6 and 10 of the request. The Commissioner has looked at each of these parts separately to determine if, on the balance of probabilities, this seems to be the correct position.

Part 2: Can you provide a breakdown of the number of people referred to PREVENT by ethnic origin and religion with WDC?

17. When the Council initially responded to the Commissioner it explained that the only information on referrals was contained in a document produced by the local Counter Terrorism Unit (CTU). The Council argued this information was therefore not held by the Council as it was owned

² <https://www.gov.uk/government/publications/counter-terrorism-strategy-contest>

³ <https://www.wycombe.gov.uk/uploads/public/documents/Community/Public-safety/Wycombe-district-Prevent-delivery-plan.pdf> - the version of the plan published at the time of the request was an earlier version dated December 2014

by the police. The Council went on to state that the information contained the number of referrals from Wycombe over a period of time along with the type of extremism involved but not further demographic breakdown was contained.

18. On considering the arguments from the Council, the Commissioner was not minded to accept the information was not held by the Council as it clearly held a copy of the document containing information on referrals, regardless of who the owner of this information was.
19. The more important point is whether the information on referrals contained in the document from the CTU is in fact held at all. This part of the request asked for a breakdown of people referred by ethnic origin and religion. The Commissioner notes that the Council states the information is broken down by the extremism involved but not any other demographic information and that the type of extremism will not necessarily reveal any information about ethnicity or religion. The Council has since gone on to confirm that the information is only categorised on an ideological basis and it could not provide the information as requested as it is not held.
20. Having considered the Council's submission, the Commissioner is prepared to accept that the Council does not hold any information that is relevant to part 2 of the request. She is therefore satisfied that the Council has met its obligations under section 1(1) of the FOIA.

Part 6: Can you provide data on how successful the programme is against the criteria?

21. The Council initially advised the Commissioner that there is a national CONTEST review⁴ published each year by the Home Secretary, this also covers PREVENT. These reports detail national progress against the success criteria. It went on to explain that the Council's Strategic Prevent Co-ordinator provided quantitative data on some engagement with Prevent but this is not data that can be measured against any targets or set criteria. The Council did initially cite section 24(1) and 31 to withhold the quantitative data it held but on review of the information has now argued it does not specifically hold information on how successful Prevent is against set criteria.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539684/55469_Cm_9310_PRINT_v0.11.pdf

22. In its submissions to the Commissioner on this point the Council explained that the Prevent Strategy sets the strategic direction and the annual CONTEST report details progress nationally but there is no equivalent report at local authority level. Whilst the Council does hold quantitative data about delivery this is not data that is used to assess the success of the programme.
23. The Commissioner considers this part of the request is worded in slightly ambiguous language. The Council's initial response to the complainant did suggest that information was held and the Council does accept it does hold information on how various parties have engaged with Prevent and information on projects but that none of this has any targets or set criteria that the data could be judged against. As such, at a local level, there is no specific information which can be provided which would show how successful Prevent has been against a set of criteria.
24. Having considered the Council's submission, the Commissioner is prepared to accept that the Council does not hold any information for part 7 of the request. She is therefore satisfied that the Council has met its obligations under section 1(1) of the FOIA.

Part 10: How do WDC and the police co-ordinate their efforts?

25. Similar to the other sections the Council revised its position from stating that information would be exempt under section 24 of the FOIA to stating that no recorded information was held in relation to this part of the request.
26. The Council explained that there is a local Prevent Police Meeting which the Council coordinator attends to coordinate actions. The coordinator discloses his activity to the police and the police disclose relevant Prevent activity they are undertaking, however the meetings are not minuted.
27. The Commissioner has considered the explanation given by the Council and the fact that this explanation appears to answer the request in that it explains how coordination occurs. The request did not ask for minutes but simply to know how coordination happens and the answer to this seems to be via regular meetings to discuss actions.
28. The Commissioner accepts the Council does not hold minutes of these meetings as she has no reason to question the assurances of the Council on this point. That being said, if regular meetings take place between the Prevent coordinator at the Council and the police it stands to reason there will be some recorded information held by the Council, even if this only amounts to a diary or calendar entry confirming the meeting. This information would likely be within the scope of the request as it would

show that regular meetings occur which is in itself answering this part of the request as it demonstrates how coordination happens.

29. Taking this into account, the Commissioner does not accept that the Council has complied with section 1(1) of the FOIA in this case. The Council stated no information was held when it could certainly answer the complainant's question about how coordination occurs and it is likely this could have been done by providing some recorded information relating to the regular meetings. As such, the Commissioner now expects the Council to review this part of the request and provide the complainant with a response confirming if information is held and providing this or explaining why it cannot be provided by virtue of any of the exemptions under the FOIA.

Section 24 - National security

30. Section 24(1) states that:

'Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security'.

31. The FOIA does not define the term national security. However in *Norman Baker v the Information Commissioner and the Cabinet Office*⁵ the Information Tribunal was guided by a House of Lords case, *Secretary of State for the Home Department v Rehman* [2001] UKHL 47, concerning whether the risk posed by a foreign national provided grounds for his deportation. The Information Tribunal summarised the Lords' observations as follows:

- "national security" means the security of the United Kingdom and its people;
- the interests of national security are not limited to actions by an individual which are targeted at the UK, its system of government or its people;
- the protection of democracy and the legal and constitutional systems of the state are part of national security as well as military defence;
- action against a foreign state may be capable indirectly of affecting the security of the UK ; and

⁵ (EA/2006/0045)

- reciprocal co-operation between the UK and other states in combating international terrorism is capable of promoting the United Kingdom's national security.
32. Furthermore, in this context the Commissioner interprets 'required for the purposes of' to mean reasonably necessary. Although there has to be a real possibility that the disclosure of requested information would undermine national security, the impact does not need to be direct or immediate.
 33. The Commissioner has gone on to consider this in the context of part 7 of the request where the section 24(1) exemption has been cited as a basis for withholding information. Part 7 asked how much funding the Council received for PREVENT and from what sources.
 34. The Council argues that providing the requested information might reveal information on how many projects have taken place or are taking place in a particular area. This information is highly sensitive and may allow third parties to compare the activity levels of the Prevent programme in different parts of the UK.
 35. Consequently, the Council believes this could facilitate the identification of intelligence regarding the areas of the UK where the threat to national security has been and is considered to be the greatest. This would undermine the objectives of the Prevent project which is crucial to the Government's strategy to counter terrorist and extremist activity in the UK at source. Disclosing the funding amounts and sources may, the Council argues, also identify areas where little or no Prevent projects have taken or are taking place and highlight potential areas to those organisations which Prevent is designed to combat, again compromising the effectiveness of the strategy.
 36. The Commissioner can accept that if funding information and amounts were released by all recipients of funding this could undermine the effectiveness of the strategy as it would be possible for individuals to identify areas where efforts to prevent extremism are being concentrated and areas where little to no funding has been allocated. Whilst the Prevent programme itself is not a secret, details of the actions taken and the funding given to projects run by Council's and other bodies is not widely known. The threat level in the UK was raised to Severe in 2014 and has remained at this level, meaning the threat of a terrorist attack is highly likely. The Prevent programme is key to the Government's counter measures to stop any attack by addressing extremism at its roots in the UK. Whilst the link between funding details and an increased possibility of an attack is somewhat tenuous it cannot be completely disregarded and the Commissioner is persuaded the exemption contained at section 24(1) is engaged.

Public interest test

37. The Council recognises there is a general public interest in transparency and openness and this increases public trust in, and engagement with, public authorities. In relation to the Prevent programme disclosing information could enhance the openness of government and help the public understand in greater depth how the government is responding to a range of factors that can draw people into terrorism or pull people away from it. It also adds that it is in the public interest that the government's counter terrorism strategy is robust and appropriate.
38. However, the Council states that as there is a serious terrorist threat the UK disclosing information on the Prevent programme could put national security at risk by jeopardising or negating the government's efforts to prevent acts of terrorism and terrorist related crime.
39. The Council further argues that there is an overwhelming public interest in national security and this should only be overridden in exceptional circumstances. Disclosing information on the Prevent programme could render the programme ineffective and if it led to radical groups focusing on areas not currently funded substantially or at all, efforts to stop extremism could be undermined.
40. In the Commissioner's opinion there is an obvious and weighty public interest in the safeguarding of national security. In the particular circumstances of this case the Commissioner agrees with the Council that it would be firmly against the public interest to undermine the Prevent programme. Nevertheless, the Commissioner recognises that section 24 is not an absolute exemption and therefore there may be circumstances where the public interest favours disclosure of information which engages this exemption. However, in the Commissioner's opinion the public interest in disclosing the withheld information in this case is arguably quite limited, beyond simply knowing how much money central government apportions to combating extremism.
41. The Commissioner has therefore concluded that the public interest favours maintaining the exemption contained at section 24(1) of FOIA.
42. In light of this decision, the Commissioner has not gone on to consider the Council's reliance on section 31 of FOIA in relation to part 7 of the request.

Right of appeal

43. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

44. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
45. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Jill Hulley
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