

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 September 2023

Public Authority: Leeds City Council

Address: Civic Hall
Leeds
LS1 1UR

Decision (including any steps ordered)

1. The complainant has requested information about referrals of young people to the counter terrorism programme, Prevent. Leeds City Council ('the Council') refused to disclose most of the requested information, citing sections 24(1) (National security) and 31(1)(a) (Law enforcement) of FOIA.
2. The Commissioner's decision is that the Council was entitled to apply section 24(1) of FOIA to refuse parts (2) – (6) of the request, and that the public interest favours maintaining the exemption.
3. The Commissioner requires no steps as a result of this decision.

Request and response

4. As part of a "round robin" request circulated to around 20 local authorities, on 30 May 2023, the complainant wrote to the Council and requested information in the following terms:

"I would like to request the following information via the Freedom of Information Act...In your response please do not identify anyone referred to the Prevent programme. Please do not identify anyone who has approached the service to express concerns about another individual(s). Please do not identify any school in any response. Please do not identify any member of staff working for the local

authority or for the Prevent programme. Please do not identify any member of the public.

(1) Do staff based at the local authority and or staff employed on behalf of the local authority participate in the Prevent programme.

(2) Since 30 May 2022 how many individuals aged sixteen or under have been referred to the Prevent team. These individuals could have been referred by a school and or social services staff and or the police and or another law enforcement agency and or a voluntary organisation and or a place of worship and or a member of the public.

(3) In the case of each individual referred can you state their age and their given / preferred gender.

(4) Can you describe the main area of concern. For instance, is the concern about their use of social media. For instance, is the concern to do with links to religious extremism. A broad description will suffice.

(5) Can you state whether the individual was referred by their school. Please do not identify the school.

(6) Have the individuals and or organisations making the referrals cited the child's interaction with and use of the following (listed below) as the reason for the referral.

- (i) A published book (s) whether that be a work of fiction and or non-fiction. Can you identify the book (s).
- (ii) A cinema release (s) including live action or animated releases. Can you identify the cinema release (s).
- (iii) A television programme of any kind including dramas and or comedies and or documentaries. Can you identify the show (s).
- (iv) A comic and or graphic novel (or similar) Can you identify the comic (s) or graphic novel (s).
- (v) A computer game of any description. Can you identify the game [sic]
- (vi) Material either viewed by them and or created them online. Can you identify any relevant websites. But please do not identify any material which would lead to the identification of the individual.
- (vii) Material either viewed by them and or created by them on social media. Can you identify the material but please do not identify any material which would lead to the identification of the individual.
- (viii) Any visual artwork. Can you identify the artwork."

5. The Council responded on 22 June 2023. In respect of part (1) of the request, the Council confirmed that it did participate in the Prevent programme. It said it did not hold sufficient information from which it could answer parts (2) – (6) of the request, suggesting that local Counter Terrorism Police may hold it.
6. Following an internal review, the Council revised its position, confirming that it did hold relevant information in respect of parts (2) – (6) of the request, which was exempt under sections 24(1) (National security) and 31(1)(a) (Law enforcement) of FOIA. It said the public interest favoured maintaining the exemptions.

Scope of the case

7. The complainant contacted the Commissioner on 21 July 2023 to complain about the way his request for information had been handled. He disagreed with the Council's refusal to disclose the information specified in parts (2) – (6) of the request.
8. The analysis below considers whether the Council was entitled to apply either of the cited exemptions to withhold the information in parts (2) – (6) of the request; and, if engaged, where the balance of the public interest lies.
9. The Commissioner has viewed the withheld information.

Reasons for decision

Section 24 – National security

10. Section 24(1) of FOIA states:

“Information which does not fall within section 23(1) [information supplied by, or relating to, bodies dealing with security matters] is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security.”

11. In broad terms, the exemption allows a public authority not to disclose information if its release would make the UK or its citizens vulnerable to a national security threat.
12. The term “national security” is not specifically defined by UK or European law. However, in *Norman Baker v the Information*

Commissioner and the Cabinet Office (EA/2006/0045 4 April 2007)¹ 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:

- "national security" means the security of the UK and its people;
 - the interests of national security are not limited to actions by the 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,
 - reciprocal cooperation between the UK and other states in combating international terrorism is capable of promoting the UK's national security.
13. The exemption applies in circumstances where withholding the requested information is "required for the purpose of safeguarding national security". The Commissioner interprets 'required' as meaning 'reasonably necessary'.

The complainant's view

14. In his complaint to the Commissioner, the complainant explained that his request was an attempt to examine whether the Prevent programme had strayed from its original core purpose of tackling extremism, in favour of "being used to police mainstream political opinion". As an example, he cited media reports alleging that Prevent officials considered an interest in particular mainstream newspaper columnists, tv programmes, books or video games might indicate an interest in right-wing extremism.
15. As regards the Council's application of section 24, he said:

¹<https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i24/Baker.pdf>

"I do not accept that the disclosure of anonymous and generic information would have any implications for national security or crime prevention. I note the public body's reference to a threat map in its most recent response. But I believe any terrorist organisation (or similar) would be able to produce such a map without relying on FOI disclosures. It would have its own contacts and intelligences [sic] sources in the communities concerned. In fact disclosures would help to highlight that the Prevent programme was working and that in turn could actually deter bad faith actors from targeting a particular community(s). In any case the disclosures would not identify an individual(s) within those communities."

The Council's view

16. The Council told the complainant:

"...disclosure of the details of prevent referrals, even in an anonymised format to reduce the risk of identification of individuals, enables individuals to gauge the extent of the Prevent work in Leeds and the type of primary issues that referrals in the area are based on. Terrorists could then use this information to aid their efforts to radicalise vulnerable people by targeting their resources more effectively. This would undermine counter terrorist efforts and thus national security."

17. It explained to the Commissioner that Prevent aims to draw vulnerable individuals away from violent extremism before they become involved in criminal activity. Disclosure of the requested information would reveal information about individuals who are more susceptible to radicalisation. This could put those individuals at risk and undermine efforts to protect national security from acts of terrorism committed by extremists.

18. The Prevent programme operates within the framework of national security, aiming to safeguard individuals and the wider community against threats to public safety. In this context, the Council considered that providing any figures for the total number of referrals (part (2) of the request) would provide significant insight into the level of risk of radicalisation of young people in the Leeds area.

19. It explained that Prevent referral data is an indicator of the extremist threat level in all areas of the UK. If other local authorities were also asked to disclose this information under FOIA, terrorist organisations, and others with extremist views, would be likely to analyse it, to identify the areas of the UK where young people appear most vulnerable and susceptible to influence by particular views. This would enable those with extremist views to better focus their efforts to recruit and influence in particular areas of the UK.

20. The Council was also of the view that the granular level of data requested in parts (3), (4) and (5) of the request would greatly increase the risk of identification of individuals. It referred the Commissioner to a previous complaint he had considered regarding a request for data held under the Prevent programme², the decision notice for which had noted:
- “...where numbers were sufficiently low in each of the broken down categories i.e. for each age group, gender and ethnicity and this was then cross-referenced it could, hypothetically, reveal that only one person of a specific gender and ethnicity and of a particular age was the subject of a referral for a specific concern. If this was the case it is not unreasonable to think that someone may be able to identify that individual or at the very least that this may lead to speculation and ‘finger-pointing’ at individuals that could fit this criteria in a local area.”
21. The Council said that the same arguments applied to the information requested at parts (3), (4) and (5) of the request; due to its level of detail, the information could enable the identification of specific young people who have been referred to the Prevent programme. As noted in the decision notice for another complaint the Commissioner has considered about Prevent³, this risk of identification could result in potential harm to the young person in question, or undermine any ongoing work that is being done with them, either by Prevent directly or by other agencies such as social services; it could cause the young person to withdraw from support services. In turn this would undermine the effectiveness of the Prevent programme and its efforts to stop individuals being drawn into terrorism and extremism, thus increasing the terror threat in the UK.
22. As regards part (6) of the request, the Council considered that disclosure of the requested information would provide significant intelligence to those seeking to radicalise young people. It would provide specific detail on exactly which materials, or platforms, have been noted as being “of interest” to the young people it is supporting, which could result in them being identified as a vehicle to promote terrorist and extremist agendas to young people. This information could be exploited by those seeking to circumvent or undermine national security measures

² <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4025719/ic-236219-m4b3.pdf>

³ <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4025711/ic-238174-k3z5.pdf>

by attempting to radicalise young people in ways that they are most likely to engage with.

The Commissioner's view

23. As discussed above, the Commissioner has previously considered complaints regarding the application of section 24 to requests for breakdowns of Prevent referrals. These include the two cases cited by the Council, and a further case concerning Essex Police⁴.
24. As set out in the Essex Police case, the Commissioner considers that to engage section 24, it is not necessary to show that disclosing the withheld information would lead to a direct security threat to the UK. The Commissioner's approach on this is set out by the House of Lords in Secretary of State for the Home Department v Rehman (as referred to above). Lord Slynn found that:

"To require the matters in question to be capable or resulting 'directly' in a threat to national security limits too tightly the discretion of the executive in deciding how the interests of the state, including not merely military defence but democracy, the legal and constitutional systems of the state need to be protected. I accept that there must be a real possibility of an adverse effect on the United Kingdom for what is done by the individual under inquiry but I do not accept that it has to be direct or immediate."
25. The Commissioner therefore considers that safeguarding national security includes protecting potential targets even if there is no evidence that an attack is imminent. Such matters would include the radicalisation of individuals who could, as a result, be intent on causing harm to both themselves and others.
26. Having viewed the withheld information in this case, the Commissioner is satisfied that there is a real risk that disclosing the requested information would provide an insight into Prevent referrals which would be of use to those seeking to radicalise vulnerable individuals. For example, if the referral figures for a specific gender and type of extremism are sufficiently low, those seeking to radicalise young people could perceive this as a weakness in the system, capable of being exploited. They could accomplish this by targeting a particular category of individuals who it appears to them are not being consistently identified and referred to the Prevent programme, or by identifying

⁴ https://ico.org.uk/media/action-weve-taken/decision-notices/2016/1624043/fs_50614258.pdf

individual young people who have been referred to it and trying to disrupt their engagement with it and counteract the work of the agencies supporting them.

27. On this latter point, and as regards the Council's submissions that particular individuals may be identifiable from the withheld information, the Commissioner has considered the refusal of the same request, by another council, under section 40(2) (Personal information) of FOIA. He found in that case that re-identification would be possible. He will not reproduce those arguments here, as section 40(2) has not been applied in this case, but they can be read in the decision notice issued for that complaint⁵, on the ICO's website.
28. The Commissioner is aware that the Home Office publishes information about national Prevent referrals, annually⁶. He is satisfied that publishing that information in more granular detail, at a local level, may offer an avenue for exploitation by, for instance, revealing geographical areas where referrals to the Prevent programme are not as prevalent as in other areas. This would offer an insight as to where it may be possible to target vulnerable individuals with a lower risk of being detected. Conversely, where the data shows high numbers of referrals in a particular area, this might indicate a higher receptiveness to radical ideals of a particular persuasion and attract increased attempts by extremists to engage with young people.
29. The Commissioner considers the 'mosaic effect' caused by multiple requests for the same data to represent a particular risk in this case, because the complainant submitted the same request to around 20 local authorities. While the Commissioner accepts that the complainant's reasons for making these requests are entirely legitimate, disclosure of information under FOIA is essentially disclosure to the world at large. Whilst there may be no concerns regarding how the complainant intends to use the requested information, it must be recognised that once disclosed under FOIA, the information will be readily available to anybody else, including to those who may wish to use it for nefarious purposes.
30. Finally, as regards the complainant's contention that terrorist groups will already have their own information networks in place, and that this data would not represent new information to them, the Commissioner

⁵ IC-247347-F8Y9

⁶ https://www.gov.uk/crime-justice-and-law/counter-extremism#research_and_statistics

considers that what is being requested is formal confirmation of information which might hitherto merely have been guessed at. He therefore disagrees with the complainant's assessment of the value of the information to such groups.

31. Having considered all the above, and his guidance on section 24⁷, the Commissioner is satisfied that the exemption at section 24(1) of FOIA is correctly engaged in respect of parts (2) – (6) of this request, on the basis that withholding the requested information is necessary for the purpose of safeguarding national security.

Public interest test

32. Section 24(1) is a qualified exemption and is subject to the public interest test set out in section 2(2)(b) of FOIA. The Commissioner has therefore considered whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
33. In each of the section 24 decision notices referred to above, the Commissioner found the public interest in maintaining the exemption at section 24 outweighed any public interest in disclosure. He does not intend to reproduce those arguments here, but he notes that for him to order disclosure in this case he would need to be presented with compelling arguments to outweigh the factors that he has previously accepted weigh in favour of withholding figures on Prevent referrals.

Public interest in disclosing the information

34. The Council made the following observations:

"The Council recognise that transparency, accountability and public understanding are a core component of the FOIA, and we would only seek to apply exemptions where absolutely necessary and on a case by case basis. We consider there is a general public interest in disclosure based around the fact that openness in Local Authorities increases public trust in, and engagement with, the Council. In addition, we acknowledge there is a public interest in efforts to safeguard against radicalisation and terrorism both at a local and national level, and

⁷ <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/section-24-safeguarding-national-security/>

disclosure could increase public confidence in the efforts taken by the Council to counter these issues.”

35. The complainant’s views are as set out in paragraphs 14 and 15.

Public interest in maintaining the exemption

36. The Council argued that it was not in the public interest to disclose information that would assist terrorists to modify their behaviour to avoid detection, or to help them identify specific groups likely to be receptive to their messages, and by doing so, threaten national security. It argued:

“Whilst the public have a right to understand how programmes such as Prevent contribute to their safety in identifying extremist threats, national statistics for the Prevent programme are already published by the Home Office on an annual basis, therefore there is already information in the public domain to satisfy the public interest and demonstrate transparency in efforts to safeguard against radicalisation and terrorism at a national level. The Prevent programmes [sic] effectiveness relies on its ability to adapt to evolving threats and to protect sensitive information. To provide the details requested at a local authority level, could endanger ongoing work to prevent extremism, and hinder the programmes overall effectiveness in safeguarding the public”.

Balance of the public interest

37. As referred to in paragraph 33, the Commissioner has previously considered the public interest in the disclosure of information about Prevent referrals and he considers those arguments are relevant in this case so they have also been taken into account.

38. While he acknowledges that there will always be a general public interest in transparency, the Commissioner does not find that the arguments presented by the complainant are sufficient to tip the public interest in favour of disclosing the information in this case. Whilst it is clear there is a public interest in accountability and in understanding the basis on which Prevent referrals might be made, the Commissioner does not consider that disclosing information that carries a clear risk of undermining national security is a proportionate way of meeting these genuine aims. He further notes that the publication of national data on Prevent referrals by the Home Office goes some way to achieving transparency without undermining national security.

39. As such he finds the balance of the public interest in this case remains with maintaining the exemption and withholding the information requested in parts (2) – (6) of the request under section 24(1) of FOIA.
40. In view of this decision it has not been necessary to also consider the application of section 31 of FOIA to withhold the information.

Right of appeal

41. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

42. 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.
43. 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

Samantha Bracegirdle
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF