

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 19 March 2024

**Public Authority:** Sheffield City Council  
**Address:** Town Hall  
Pinstone Street  
Sheffield  
S1 2HH

#### Decision (including any steps ordered)

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1. The complainant has requested information about Sheffield City Council's ("the Council") involvement with the Prevent programme. The Council advised that it did participate in the Prevent programme but that it did not hold any of the requested information. It also provided arguments in respect of section 24 (1) (National security) of FOIA, were the Commissioner to disagree with its position.
2. The Commissioner's decision is that the Council has taken too narrow a view of the request and that it does hold information within the scope of the request. However, he finds that the Council was entitled to rely on section 24(1) of FOIA to withhold any information held.
3. In failing to respond to the request and issue an adequate refusal notice within 20 working days, the Commissioner has found breaches of sections 10(1), 17(1) and 17(3) of FOIA. No steps are required.

#### Background

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4. The Council has explained to the Commissioner:

"The objectives of Prevent are to:

- tackle the ideological causes of terrorism
- intervene early to support people susceptible to radicalisation

- enable people who have already engaged in terrorism to disengage and rehabilitate

Section 26 of the Counter Terrorism and Security Act 2015 (the 'Act') places a duty on certain bodies including local authorities ("specified authorities" listed in Schedule 6 to the Act), in the exercise of their functions, to have "due regard to the need to prevent people from being drawn into terrorism".

Our role is to implement our statutory responsibilities under the Prevent Duty Guidance<sup>1</sup> which includes:

- Responding to any local threat of terrorism as defined above and reducing permissive environments that would otherwise support radicalising activity
- Providing leadership, supporting partnership working (including police, health, education, probation, voluntary and faith organisations, and communities) and maintaining the appropriate capabilities of our staff through training and awareness
- Coordinating support to individuals who are susceptible to radicalisation through participation in the Channel process.

Under the Act, the responsibility for convening and chairing a Channel Panel lies with the local authority. Channel is a multi-agency safeguarding programme run in every local authority in England and Wales and aims to:

- identify individuals at risk of being drawn into terrorism
- assess the nature and extent of that risk; and
- develop the most appropriate support plan to reduce an individual's susceptibility.

We deliver these objectives through information sharing; meeting with our partners; arranging training for our staff and those in partner organisations; and commissioning project activity".

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<sup>1</sup> <https://www.gov.uk/government/publications/prevent-duty-guidance>

## Request and response

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5. 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 the following information:

"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 gamp [sic].
- (vi) Material either viewed by them and or created by 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".

6. The Council acknowledged receipt of the request on 7 June 2023.
7. On 27 June the Council wrote to the complainant to advise that it needed additional time in which to consider the public interest in disclosure of the requested information. It did not cite which exemptions it was considering but gave a revised response date of no later than 25 July 2023, an additional 20 working days.
8. On 26 July 2023 the Council responded. It said "yes" in respect of part (1) of the request. It advised that no information was held in respect of the remainder of the request.
9. The complainant requested an internal review on 26 July 2023. He said:

"I am unhappy with the council's failure to answer the request on time.

I also do not accept that the authority does not hold information of relevance to the request.

You will note that in my original request for information I asked for details of all referrals to the council's Prevent team including those made by law enforcement bodies.

It is my belief that the council holds information of relevance to the request".

10. The Council provided an internal review on 9 November 2023. It apologised for the delay, but maintained its position. It also explained to the complainant:

“the Council’s Prevent Team does not receive referrals – it is not part of the referral pathway or have [sic] a case management function.

The national Prevent guidance stipulates that all Prevent referrals go directly to Counter Terrorism Policing for assessment and progression”.

11. On 8 March 2024, in response to the Commissioner’s enquiries, the Council advised that, were the Commissioner to disagree with its position regarding section 1 of FOIA, it wished to instead apply section 24(1) for information held in respect of the Channel Panel.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 9 November 2023, to complain about the way his request for information had been handled. His grounds were as follows:

“Firstly I am unhappy with the time taken to process the original request for information and the subsequent request for an internal review. The original request was submitted on 30 May but a response did not arrive until 26 July.

I am not convinced the council was within its rights to extend the twenty working day deadline in the way that it did. I would be grateful if you could examine the circumstances surrounding the delay. In the run up to issuing a response the council claimed it was considering public interest arguments. But in its subsequent reply the council claimed it did not hold any relevant information.

I am also unhappy with the length of time taken to process the request for an internal review. The request for an internal review was submitted on 26 July but the reply only arrived today. I maintain that was an unacceptable delay.

Given the council's handling of the matter, I can have no confidence in the substance of its response. I do not accept that the council does not hold information relevant to my request”.

13. The Commissioner will consider procedural matters raised by the complainant. He will also consider whether, on the civil standard of the balance of probabilities, the Council holds the requested information and

the application of section 24(1) of FOIA. He has commented on the amount of time taken to conduct an internal review in "Other matters" at the end of this notice.

## Reasons for decision

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### Section 1 – general right of access

14. Section 1 of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds that information and, if so, to have that information communicated to him.
15. In this case, the complainant clearly believes that the Council holds information from which it can answer his request. The Council's position is that it does not.
16. The Commissioner has previously made a determination of the same request to a different council which took the same position as the Council in this case.
17. Rather than repeat his arguments, in line with IC-247372-R9N8<sup>2</sup> the Commissioner concludes that an objective reading of the request would recognise it as asking for any information held by the Council on particular referrals made under the Prevent programme. The Commissioner is not satisfied that the explanation provided by the Council justifies the exclusion of any information considered by the Channel Panel from the scope of the request as the Council is a participant. The Council was therefore incorrect to say that it did not hold any information.
18. As mentioned above, the Council has also relied on section 24(1) of FOIA in the event that the Commissioner disagreed regarding section 1.
19. The complainant is unaware of this alternative view, however, the Commissioner does not consider he will be disadvantaged by having it considered here without his knowledge. This is because it is a view which was argued by some of the other councils that responded to his 'round robin' request.

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<sup>2</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4027068/ic-247372-r9n8.pdf>

## **Section 24 – National security**

20. 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”.

21. 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.
22. The Commissioner has already reached a decision for this same request<sup>3</sup> on the grounds of section 24, albeit for a different council.
23. Rather than repeat the same arguments, in line with his findings in that case, the Commissioner finds that the Council was entitled to withhold the requested information in line with section 24 of FOIA.

## **Procedural matters**

24. Section 10(1) of FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
25. Section 17(1) of FOIA states that where a public authority refuses a request for information, it must provide the applicant with a refusal notice explaining the exemptions relied upon and why they apply (if not apparent) no later than 20 working days after the date on which the request was received.
26. Under section 17(3) a public authority can, where it is citing a qualified exemption, have a ‘reasonable’ extension of time to consider the balance of the public interest.
27. The Commissioner considers it reasonable to extend the time to provide a full response, including public interest considerations, by up to a further 20 working days, which would allow a public authority 40 working days in total. The Commissioner considers that any extension beyond 40 working days should be exceptional and he requires the public authority to fully justify the time taken.

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<sup>3</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4027005/ic-247374-n3l8.pdf>

28. In this case, the complainant submitted his request on 30 May 2023, and it was acknowledged on 7 June 2023. On 27 June 2023, the Council wrote to the complainant and advised that it wished to extend the time to respond, through consideration of the public interest. It gave an expected response date of no later than 26 July 2023, without stating which exemptions were under consideration. The Council provided its response on 25 July 2023, advising that no information was held.
29. The Commissioner reminds the Council that extension to the PIT can only be applied once it has been determined that a specified exemption is engaged, and not, as can only be surmised in this case, to determine whether any information is held.
30. In this case, the Council therefore breached sections 10(1), 17(1) and 17(3) of FOIA in the handling of this request.

### **Other matters**

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31. Although they do not form part of this notice the Commissioner wishes to highlight the following.

### **Internal review**

32. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so, and where an authority chooses to offer one, the code of practice established under section 45 of FOIA sets out, in general terms, the procedure that should be followed. The code states that reviews should be conducted promptly and within reasonable timescales.
33. The Commissioner has interpreted this to mean that internal reviews should take no longer than 20 working days in most cases, or 40 in exceptional circumstances.
34. The complainant asked for an internal review of his request on 26 July 2023 and the Council provided the outcome of the internal review on 9 November 2023, more than 3 months later.
35. The Commissioner considers that in failing to conduct an internal review within the timescales set out above, the Council has not acted in accordance with the section 45 code.
36. The Commissioner has made a record of the delay. This may form evidence in future enforcement action against the Council should evidence from other cases suggest that there are systemic issues which are causing delays.



## **Right of appeal**

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37. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

38. 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.
39. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**