

**Freedom of Information Act 2000 (FOIA)**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 27 June 2023

**Public Authority:** Chief Constable of West Midlands Police  
**Address:** Lloyd House  
Colmore Circus  
Birmingham  
B4 6NQ

**Decision (including any steps ordered)**

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1. The complainant has requested a breakdown of figures on referrals to Prevent by various categories. West Midlands Police (WMP) refused the request on the basis of sections 24(1) and 31(1)(a) and (b) of FOIA.
2. The Commissioner's decision is that WMP has correctly applied section 24(1) and the public interest favours maintaining the exemption and withholding the requested information.
3. The Commissioner does not require further steps.

**Request and response**

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4. On 13 December 2022, the complainant wrote to West Midlands Police ("WMP") and requested information in the following terms:  
  
"For each of the years 2017 to 2022, please could you provide a breakdown of all those referred by West Midlands Police to Prevent by:
  - a. ethnicity and gender;
  - b. ethnicity and age; and

c. ethnicity and type of concern giving rise to the referral.

Please could this data be provided in such a way that it is possible to analyse it intersectionally, particularly as between the three data categories of age, ethnicity and gender. We would like to be able to see, in particular, the ethnicity of females in each age group.”

5. WMP responded on 20 January 2023. It stated that information in scope of the request was held but was being withheld under sections 24(1) and 31(1)(a) and (b) of FOIA.
6. Following an internal review WMP wrote to the complainant on 3 March 2023. It stated that it upheld its original position.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 1 June 2023 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of his investigation is to determine if WMP has applied either of the cited exemptions correctly and, if engaged, where the balance of the public interest lies.

### **Reasons for decision**

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#### **Section 24 – national security**

9. Section 24(1) of FOIA states that information is exempt if it is required for the purpose of safeguarding national security.
10. The Commissioner has previously considered complaints regarding requests for data held under the Prevent programme. These include a request made to the [Metropolitan Police Service](#) (MPS) and an earlier request to [Essex Police](#). In the Essex Police case a detailed analysis of the section 24 exemption is included at paragraphs 15 – 21 and has not been repeated here.
11. WMP has cited the MPS case in its internal review response, referring to this as providing a basis of refusing the current request under section 24(1) for the same reasons as set out in that notice. The complainant argues that the MPS case is flawed as it relies heavily on the Essex Police case and they are not similar.
12. The Essex Police case concerned a request for Prevent referrals from various geographic areas over a 5 year period and included numbers of referrals due to radicalisation, as well as other related matters. The MPS

case related to a request for breakdowns of Prevent referrals by 'reason for concern' over a period of 6 years. The Commissioner found in the MPS case that the requests had sufficient similarity to each other in what they were seeking.

13. The main basis for accepting the section 24(1) exemption was engaged in the Essex Police case was that giving any statistics showing the number of referrals may provide some insight – whether this is a zero return or there have been large numbers of referrals. Any release of numbers of referrals will reveal something as it will show if that police force is making referrals and this intelligence may be of use to those seeking to radicalise others by allowing them to assess whether or not activity either has, or is likely to, come to the notice of the police in a particular region.
14. The Essex case did ask for information to be broken down to a more granular level ie by town so the Commissioner acknowledges this is different than in the MPS case and the request that is being considered here. Clearly, a request asking for figures at a more granular level will carry a greater risk but that does not mean that there is no risk if the information is only being requested at a regional level, as is the case here.
15. The complainant has argued that their request would not identify individuals and if it was a concern then a number of less than 10 could be withheld. However, the issue is not simply whether individuals could be identified but also whether revealing the number of referrals made in and of itself may be a threat to national security.
16. WMP has argued that publication of Prevent data would provide information to those who seek to challenge the process. It stated that allegations of 'spying in the community' and 'targeting Muslims' misrepresents and undermines the intention of the Prevent programme which seeks to support those individuals vulnerable to being drawn into violent extremism.
17. WMP considers that figures on the ethnicity or age of participants may fuel perceived grievances such as the view that young Muslims are being targeted, or that the issues of political extremists are not being tackled. It explained that Prevent provides a mechanism for identifying individuals who may be vulnerable to being drawn into extremism, accessing the risk and referring cases to a multi-agency panel to decide on support. Effective information sharing is key to ensuring delivery partners, such as education and child services, can build a picture of an individual's vulnerability and provide the appropriate support.
18. The Commissioner's view is that even at a regional level there is a risk that disclosing the broken down figures could provide insight into

Prevent referrals that may be of use to those seeking to radicalise as it may show whether activity is being identified in a region. There is also still, even at a regional level, a risk of identification of individuals which cannot be discounted. If the numbers were sufficiently low in each of the broken down categories ie 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.

19. As such the Commissioner is satisfied that this exemption is appropriately engaged on the basis that it is reasonably necessary for the purposes of national security.
20. Section 24(1) is a qualified exemption. In order for WMP to rely on this exemption the public interest favouring maintenance of the exemption must outweigh the public interest in disclosure of the requested information.
21. In both of the previous cases the Commissioner found the public interest in maintaining the exemption outweighed any public interest in disclosure. He does not intend to repeat these arguments here but notes that for him to order disclosure in this case he would need to be presented with compelling arguments to outweigh the factors he has previously accepted weigh in favour of withholding figures on Prevent referrals.
22. The complainant has stated that being able to scrutinise and ensure public bodies remain accountable to the public is one of the key principles of FOIA. They argue that:

"Accountability is a core component of the FOIA regime, and the publication of relevant data allows the public to assess the efficacy of policies, both in meeting their stated goals, as well as in terms of their consequences, unintended or otherwise. As with all areas of policing, there is a real concern as to whether ethnic disparities exist as a consequence of the exercise of police powers. It is important that the public can see that the police take such concerns seriously, and ensure that measures are in place to mitigate if not fully address them. The importance of accessing reliable data on ethnicity in this respect is indispensable, as recognised by the Lammy Report, the findings of which are being implemented by the Government.

In addition, [WMP] is a public body under the Equality Act 2010. Section 149 of the Act requires that public bodies, in the exercise of their functions, have "due regard" to the statutory equality objectives,

which include, inter alia, the need to eliminate discrimination. We submit that publication of the data requested in our FOI Request is necessary to demonstrate [WMP's] compliance with the public sector equality duty."

23. Conversely, WMP did identify some public interest arguments in favour of maintaining the exemption that the Commissioner feels worth noting here. WMP clarified that:

"Prevent only operates in specific locations. Revealing detailed statistics may increase interest in cases which could ultimately lead to the identity of individuals and the organisations we work with, which may assist others intending to counter such work. Identification of those working locally to deliver the aims and objectives of Prevent could enable those wishing to counter such work to engage in activity to disrupt and jeopardise the successful delivery of ongoing work. This could threaten the successful delivery of Prevent and the government's counter-terrorism strategy and lead to the public being at increased risk from terrorism. There is also a potential for such data to be used to increase community tensions in an area, which would not be in the public interest.

Any information shared between agencies (intelligence) has the potential to cover all aspects of criminal activity, be it threats to national security, future planned robberies or intelligence relating to terrorist activity. Disclosure of the information would enable those intent on engaging in terrorist activities to determine on a national level which areas within the UK may be a vulnerable area to target."

24. As already mentioned the Commissioner has considered the public interest in disclosure of information in this area before and he considers the previous arguments are relevant in this case. 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, more specifically, in ensuring there is no ethnic disparity in policing the Commissioner does not consider that disclosing information that carries a risk of undermining national security is a proportionate way of meeting these genuine aims.
25. As such he finds the balance of the public interest in this case remains with maintaining the exemption and withholding the requested information under section 24(1) of FOIA.
26. He has therefore not gone on to consider the application of section 31.

## Right of appeal

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27. 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)

28. 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.

29. 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**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**