

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 September 2023

Public Authority: Barnsley Metropolitan Borough Council
Address: Town Hall
Barnsley
S70 2AQ

Decision (including any steps ordered)

1. The complainant has requested information about referrals of young people to the counter terrorism programme, Prevent. Barnsley Metropolitan Borough Council ('the Council') refused to disclose most of the requested information, citing section 24(1) (National security) 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 16 June 2023. It provided some general information about the duties imposed by the Counter-Terrorism and

Security Act 2015 in respect of part (1) of the request and suggested that local Counter Terrorism Police may hold the remaining information.

6. Following an internal review, the Council answered 'yes' to part (1) of the request. It provided further contextualising information regarding part (2) of the request but refused to disclose the number of referrals, explaining that the information requested in parts (2) – (6) of the request was exempt from disclosure under section 40(2) (Personal information) of FOIA.

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 application of section 40(2) to refuse parts (2) – (6) of the request.
8. During the Commissioner's investigation the Council revised its position and said it also wished to rely on section 24(1) of FOIA to withhold the information.
9. This late revision has not been put to the complainant, to forego any further delay in the investigation. The Commissioner does not consider the complainant has been disadvantaged by this approach, as he has already provided his views on the application of that exemption when complaining about other public authorities' handling of the same request.
10. Following the combined cases of the Home Office v Information Commissioner (GIA/2098/2010) and DEFRA v Information Commissioner (GIA/1694/2010) in the Upper Tribunal, a public authority is able to claim a new exemption or exception either before the Commissioner or the First-tier Tribunal and both must consider any such new claims.
11. The Commissioner has considered the Council's application of section 24(1) of FOIA to withhold the information in parts (2) – (6) of the request.

Reasons for decision

Section 24 – National security

12. 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.”

13. 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.

14. The request in this case is identical to the complainant's request for information to Leeds City Council, which the Commissioner has considered alongside this case, under reference IC-247374-N3L8. The decision notice in that case is being issued at the same time as this decision notice and will be available to view on the Commissioner's website¹.

15. Having considered all the factors applicable in this case, the Commissioner is satisfied that the similarity between this case and the request in case reference IC-247374-N3L8 is such that he is able to reach the same decision here about the citing of section 24(1) of FOIA to withhold the information at parts (2) – (6) of the request.

16. For brevity, the Commissioner will not reproduce the content of the decision notice for case reference IC-247374-N3L8 here, but he has adopted the same analysis and concluded that the Council was entitled to rely on section 24(1) of FOIA to withhold the information in parts (2) – (6) of the request, with the public interest favouring maintaining the exemption.

17. In view of this decision, it has not been necessary to also consider the Council's application of section 40(2) to the same information.

¹ <https://icosearch.ico.org.uk/s/search.html?collection=ico-meta&profile=decisions&query>

Right of appeal

18. 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

19. 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.
20. 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
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SK9 5AF