

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 March 2017

Public Authority: Chief Constable of Cumbria Constabulary
Address: Carleton Hall
Penrith
Cumbria
CA10 2AU

Decision (including any steps ordered)

1. The complainant has requested copies of the training materials used by Cumbria Constabulary in its Workshop to Raise Awareness of Prevent ("WRAP") training sessions. Cumbria Constabulary refused to disclose this information under the exemptions provided by sections 24(1) (national security), 31(1) (law enforcement) and 40 (personal information) of the FOIA.
2. The Commissioner's decision is that Cumbria Constabulary was entitled to rely on section 24(1) to refuse to disclose the requested information. However, she found procedural breaches relating to the time Cumbria Constabulary took to deal with the request and the internal review.
3. The Commissioner requires no steps to be taken.

Background

4. "Prevent" is part of the Government's counter-terrorism strategy and its aim is *"to stop people becoming terrorists or supporting terrorism."*¹
5. WRAP training session materials are devised and circulated to public bodies such as Cumbria Constabulary, by the Home Office. The Commissioner has previously considered the question of access to WRAP training materials under decision notice FS50607018². In that case, the Home Office gave the following description of the purpose of WRAP:

"The Counter-Terrorism and Security Act 2015 imposes a duty on specified authorities to have due regard to the need to prevent people from being drawn into terrorism. This is also known as the Prevent duty. This means reducing the risk of vulnerable people from radicalisation and the identification and referral of those considered to be at risk.

The Workshop to Raise Awareness of Prevent (WRAP) is a Home Office training package designed for front-line staff. It provides an overview of the Prevent Strategy and ways of identifying individuals vulnerable to radicalisation, as well as those seeking to radicalise others.

[WRAP] is aimed at public sector front line staff covered by the Prevent statutory duty, in both the private and public sector including; social services, the health sector, the education sector, the probation service, offender management units, family protection units and the police."

6. WRAP training is delivered only by accredited trainers and provided to front line staff who are subject to the Prevent duty, including, in this case, Cumbria Constabulary.

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf, paragraph 3.8

² <https://ico.org.uk/media/action-weve-taken/decision-notices/2016/1623998/fs50607018.pdf>

Request and response

7. On 19 October 2015, the complainant wrote to Cumbria Constabulary and requested information in the following terms:

"Officers from Cumbria Constabulary are delivering Workshop to Raise Awareness of Prevent (WRAP) training sessions to staff in public sector and community organisations on the government's counter-terrorism Prevent strategy and 'radicalisation'.

I would be grateful for a copy of the standard presentation your officers currently deliver and clarification on the examples of 'domestic extremism' that they have highlighted when talking to participants (not simply 'left-wing extremism' or 'right-wing extremism' but the specific examples of campaigns or groups), during training held since January 2015".

8. Cumbria Constabulary informed the complainant that it needed additional time to consider public interest arguments in respect of sections 24 and 31 of the FOIA, saying that it would respond to the request by 14 December 2015. Following the Commissioner's intervention, it responded on 4 February 2016. It confirmed that it held information which fell within the scope of the request, but said that it was exempt from disclosure under sections 24(1) (national security), 31(1) (law enforcement), 36 (prejudice to the effective conduct of public affairs) and 40 (personal information) of the FOIA. With regard to sections 24, 31 and 36, it said the public interest in maintaining the exemptions was stronger than that in disclosing the information.
9. The complainant requested an internal review on 4 February 2016. Cumbria Constabulary provided the outcome of the internal review on 11 April 2016. It withdrew its reliance on section 36, but upheld its decision to apply the remaining exemptions to withhold the requested information.

Scope of the case

10. The complainant contacted the Commissioner on 2 June 2016 to complain about Cumbria Constabulary's decision to continue to withhold information in response to the exemptions at 24(1), 31(1) and 40 of the FOIA.
11. The Commissioner has also considered in this decision notice the time it took Cumbria Constabulary to deal with the request. She has addressed

the time it took to deal with the internal review in the "Other matters" section of this notice.

Reasons for decision

Time for compliance

12. Section 1(1) of the FOIA provides that any person making a request for information is entitled:

"(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him".

13. Section 10(1) of the 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.

14. 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.

15. The Commissioner considers it reasonable to extend the time for compliance to provide a full response including public interest considerations by a maximum of further 20 working days, which would allow a public authority 40 working days in total. Any extension beyond 40 working days would require there to be exceptional circumstances, fully justified by the public authority.

16. In this case, the total time taken to consider public interest arguments exceeded 70 working days. While an apology was offered, the delay appeared to be due largely to staffing problems, which is not an adequate justification for extending the timescale beyond 40 working days. The Commissioner has therefore concluded that the timescale was not reasonable and that Cumbria Constabulary did not comply with section 17(3) of the FOIA.

17. The Commissioner notes, however, that since this request was dealt with, Cumbria Constabulary has recruited an additional member staff in the relevant department, and that this should reduce the likelihood of similar delays occurring in future.

Section 24 – national security

18. Cumbria Constabulary cited section 24(1), which provides an exemption from the duty to disclose where this is reasonably required for the purposes of national security. Consideration of this exemption involves

two stages; first, the exemption must be engaged due to the requirements of national security. Secondly, this exemption is qualified by the public interest, which means that the information must be disclosed if the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure.

19. The Commissioner interprets "required" as used in section 24 to mean "reasonably necessary". The exemption will, therefore, be engaged if it is reasonably necessary for the purpose of safeguarding national security for the requested information to be withheld.
20. Cumbria Constabulary's reasons for citing this exemption concerned the need to protect the integrity and credibility of the WRAP training programme, as well as the quality with which WRAP training is delivered and its efficacy in preventing extremism. It said that releasing the training materials into the public domain risked elements of them being taken out of context, or used without authorisation in an uncontrolled fashion, which could discredit and undermine the effectiveness of WRAP training and the Prevent programme. It also argued that the content of the training would be useful to those wishing to take action to counteract the effectiveness of Prevent.
21. Cumbria Constabulary explained that the presentation slides and related videos for WRAP training are made available by the Home Office on the strict understanding that they be accessed and used only by accredited deliverers of WRAP training. Cumbria Constabulary is subject to a formal confidentiality agreement with the Home Office in this regard. The Home Office retains significant control over the content of the materials and how they may be used. Cumbria Constabulary said that the presentation was unaltered from what the Home Office had provided to it. It commented that the strict access controls afforded to WRAP training materials enable the Home Office to ensure consistent and controlled delivery of the training materials it supplies across multiple sectors.
22. Cumbria Constabulary believed that disclosure of the requested information could be harmful to the success of the WRAP training, and thus, the Prevent strategy, in several ways. Firstly, it believed that disclosure may lead to the training materials being delivered by unauthorised providers in a manner that did not meet the standards required by the originators of the material (the Home Office) and that this would harm the efficacy of the training, which would be detrimental to the Prevent strategy.
23. Cumbria Constabulary also believed that disclosure could lead to groups or individuals who could be characterised as having an "anti-Prevent" agenda, seeking to discredit or undermine the training materials. It could also provide useful intelligence to extremists seeking to avoid coming to the attention of the Prevent programme. All of these

outcomes would ultimately be harmful to the effectiveness of the Prevent strategy.

24. The Commissioner has examined Cumbria Constabulary's reasons for considering that section 24 applies. The arguments it has provided concern disclosure being detrimental to the Prevent strategy, the aim of which is to prevent terrorism. As such, they are clearly relevant to national security, which is at the heart of section 24.
25. However, as set out at paragraph 19, above, section 24 will only be engaged if exemption from disclosure is "reasonably necessary" for the purpose of safeguarding national security.
26. Cumbria Constabulary confirmed that the WRAP training materials were unaltered from the version provided to it by the Home Office. The Commissioner has previously considered those materials in the decision notice referred to in paragraph 5, above. In that case, following a demonstration of the training and having viewed the training materials, the Commissioner recognised the importance of those materials, which concern a very sensitive subject, being delivered in the manner approved by the Home Office. Regard has therefore been had to submissions made by the Home Office on that subject.
27. On the issue of the likelihood of any party seeking to use these materials to attack the aims of Prevent, a cursory internet search reveals that Prevent is a controversial strategy which has attracted criticism from some quarters. There are individuals and groups who question its approach (the complainant himself voiced concerns in his complaint to the Commissioner about erroneous assumptions he believes the training perpetuates) and some are openly hostile to it. Amongst the latter are groups that have campaigned against it. The Commissioner accepts that such groups are likely to seek to highlight in response to disclosure what they regard as flaws or particularly controversial aspects of the training materials. This, in turn may result in detriment to the effectiveness with which WRAP training can divert vulnerable individuals from extremism of all kinds.
28. Furthermore, in any case where the possible release of counter-terrorist related recorded information is under consideration, the likelihood of those materials being exploited by extremist individuals and groups will be relevant. In this case, as well as the parties referred to in the preceding paragraph that have a particular objection to Prevent, it is likely that there would be extremist individuals and groups that would seek to exploit the disclosure of the information in question, to the detriment of the Government's counter-terrorist efforts.
29. A counter argument against withholding the requested information could be made that its content is disclosed each time the training is delivered.

The Commissioner recognises that those who have received the training will have some knowledge of the content of the information, but the Commissioner does not consider this to be equivalent to its full and unrestricted disclosure into the public domain in response to a request made under the FOIA.

30. The Commissioner has considered whether it would be possible to disclose a redacted version of the requested information, rather than withholding it in its entirety. However, the Commissioner considers that redaction and a partial disclosure would not be practicable in this case. The nature of the information means that it would not be possible to redact part of the content whilst still addressing the concerns set out above.
31. Taking all the above into account, the Commissioner's view is that in this case, exemption from the duty to disclose in relation to the information in question is reasonably required for the purposes of national security. She therefore considers that the exemption provided by section 24(1) of the FOIA is engaged.

Balance of the public interest

32. Section 24 is a qualified exemption and so it is nevertheless necessary to consider whether the public interest favours maintaining the exemption or disclosing the information.
33. In forming a conclusion on the balance of the public interest in this case, the Commissioner has taken into account the considerable public interest inherent in the maintenance of the particular exemption, as well as the specific factors that apply in relation to the requested information.

Public interest arguments favouring disclosure

34. The arguments considered in this decision notice surround the need to protect the requested information due to its subject matter. However, conversely, the Commissioner recognises that there is also a strong public interest in disclosure of the requested information because of its subject matter. The Commissioner's view is that any information that details the anti-terrorist efforts being made by the Government will be the subject of considerable public interest in order to improve knowledge, understanding and confidence in the work being undertaken by the Government in this vital area.
35. In this case there is also a particular public interest in the disclosure of the specific materials in question. The controversy relating to WRAP training and Prevent is touched on in paragraph 27, above. The Commissioner's view is that there is a public interest in the disclosure of the WRAP training materials, in order that the public can assess whether

the controversy relating to this matter is justified. The combined weight of these public interest factors in favour of disclosure is considerable.

Public interest arguments favouring maintaining the exemption

36. In any situation where section 24(1) is found to be engaged, the Commissioner must recognise the public interest inherent in this exemption. Safeguarding national security is a matter of the most fundamental public interest; its weight can be matched only where there are also equally fundamental public interests in favour of disclosure of the requested information.
37. In this case the public interest in the maintenance of the exemption concerns preserving the ability of the Home Office (as the originator of the WRAP training material) and the Government as a whole, to pursue their anti-terrorism strategies. The Commissioner finds the public interest in these efforts not being undermined or circumvented weighs overwhelmingly in favour of the maintenance of the exemption.
38. In conclusion, the Commissioner has recognised public interest of considerable weight in favour of disclosure given the subject matter of the requested information. She does not, however, believe that it matches the weight of the public interest in avoiding a disclosure that could be detrimental to national security. The finding of the Commissioner is, therefore, that the public interest in the maintenance of the exemption outweighs the public interest in disclosure and that Cumbria Constabulary was not obliged to disclose the requested information.
39. As the Commissioner has determined that Cumbria Constabulary was entitled to rely upon section 24 to withhold the information in its entirety, she has not gone on to consider the other exemptions it cited.

Other matters

Section 45 – internal review

40. There is no obligation under the 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 the 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.
41. 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.

42. The complainant asked for an internal review of his request on 4 February 2016 and Cumbria Constabulary provided the outcome of the internal review on 11 April 2016, 47 working days later.
43. The Commissioner considers that in failing to conduct an internal review within the timescales set out above, Cumbria Constabulary has not acted in accordance with the section 45 code.

Right of appeal

44. 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

45. 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.
46. 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
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