

'Get in on the Act!!'

Freedom of Information Act 2000 (FOIA) & Prevent Referrals: July 2019



PREVENT REFERRAL DATA FOIA REQUESTS:

Always carefully consider the implications of releasing Prevent/Channel referral data to requestors- particularly where numbers are small and the request relates to personal information relating to age, ethnicity gender etc.

Public access to such data can potentially make it easier to identify a referral (or indeed for the individual to be able to recognise that the data is about them), compromising their participation in the Prevent/Channel programme, breaching their legal right to confidentiality, and making them potentially more vulnerable to radicalisation.

THE PUBLIC INTEREST TEST (PIT) :

- The FOIA contains a number of exemptions which allows organisations to withhold information from a requester if it is believed that this would not be in the public interest.
- The FOIA 2000 PIT works to ensure there is tangible benefit to the public receiving information- not that they will simply find it interesting!
- There is therefore a balancing act between the PI arguments in favour of making a disclosure as opposed to the potential *harms* of making a disclosure. This is called applying the PIT.
- Where the *harm test* overrides PI considerations, there are specific exemptions under the FOIA 2000 which can potentially be applied, particularly where referral data is being requested.
- **This should always be decided on a case by case basis.**

FOIA EXEMPTIONS:

Below are some existing exemptions based on published ICO decisions which can be considered when making replies:

Section 24(1) (Qualified)

"Considered necessary for the purposes of national security to exempt the information requested from disclosure."

Section 31 A (Qualified)

"Disclosure would, or would be likely to, prejudice the prevention or detection of crime and the apprehension or prosecution of offenders."

Section 41 (Absolute)

Relates to information obtained from a person if disclosure could constitute a breach of confidence. NB This exemption may apply in a Prevent milieu where the degree of information being requested could potentially disclose the identity of the referral.



The ICO Website (Information Commissioner's Office) contains more information on the FOIA and the various exemptions. There is also an archive of all previous decisions regarding non-disclosure of Prevent referral data by organisations- including where exemptions have been successfully applied. Please go to [ICO Decisions](#) and simply type the words 'Channel; or Prevent into the search engine.

Please remember!!



- Your organisation is the data controller for all recorded data- including Prevent/Channel referral data.
- Your organisation must make informed decisions regarding what data or information should be released to applicants requesting Prevent/Channel data under the FOIA 2000.
- With certain data i.e. which doesn't relate to personal or sensitive information (e.g. training figures), there is a presumption in favour of disclosure to enhance greater openness in the public sector.
- **If you are unsure regarding making responses to Prevent FOIA requests, please seek advice from your FOIA or Information Governance Team or Senior Information Risk Owner.**