

30 August 2018

Rebecca Hickman

Our reference: CAS-406735-W0ZDBK

By email:

request-489348-

91bc64c6@whatdotheyknow.com

Dear Ms Hickman

### **Your request for information**

Thank you for your revised request for guidance provided to inspectors on Prevent and approaches to the Islamic faith in schools. This was submitted on 22 July 2018 via the 'whatdotheyknow' website. Your full request is detailed in Annex A below.

### **The Freedom of Information Act**

We have dealt with your request in accordance with the Freedom of Information (FOI) Act 2000. The first requirement of the Act is that we should confirm whether or not we hold information of the description set out in your request. We must then provide you with the information we hold which falls within the scope of your request, provided it is not 'exempt' information.

In this case we can confirm that none of our senior managers have issued any memo, guidance or circular to inspectors (or to others, to be sent to inspectors) in relation to a) the implementation of Prevent in schools or b) schools' policies/approaches to Islamic customs and beliefs since January 2017. It may be useful for me to explain that all of Ofsted's guidance documents, in relation to conducting inspections, across all our remits, are already published on our website<sup>1</sup>. The common inspection framework<sup>2</sup> sets out the principles that apply to inspection and the main judgements that inspectors make.

We also issue guidance for inspectors and stakeholders in our termly *School Inspection Update* about matters relating to the inspection of schools. I am pleased to inform you that this can also be found online<sup>3</sup>.

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<sup>1</sup><https://www.gov.uk/topic/schools-colleges-childrens-services/inspections>

<sup>2</sup> <https://www.gov.uk/government/publications/common-inspection-framework-education-skills-and-early-years-from-september-2015>

<sup>3</sup> <https://www.gov.uk/government/collections/school-inspection-update-newsletter>

In relation to your specific request, we do have training materials used to train our inspection workforce in relation to Preventing Violent Extremism ('Prevent'), but we consider those materials are exempt from disclosure to the public. This is because we consider that disclosing this internal training would be likely to harm our ability to carry out our inspection work.

The exemptions at section 33 and 31 of the Act support our decision not to disclose the information described above. This decision is explained in detail in Annex B below.

I trust that this letter clearly explains our position. If you are dissatisfied with our response or the handling of your request, you may request a formal internal review. In order to do this, please write to the following address, setting out which areas of the response you are unhappy with:

Email: [informationrequest@ofsted.gov.uk](mailto:informationrequest@ofsted.gov.uk) or write to:

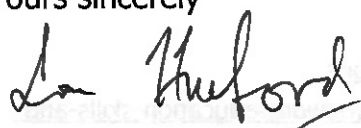
Ofsted  
2 Rivergate  
Templequay  
Bristol  
BS1 6EH

If you are not content with the outcome of the internal review, you also have the right to apply to the Information Commissioner for a decision as to whether or not we have complied with our obligations under the FOI Act with respect to your request. The Information Commissioner can be contacted at:  
<https://ico.org.uk/concerns/getting/>

or:

Customer Contact  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

Yours sincerely



Sean Harford HMI  
National Director, Education

## **Annex A**

*You requested the following information from January 2017:*

*Could you send me any kind of memo, guidance or circular that has been given to inspectors in relation to*

*a) the implementation of Prevent in schools or*

*b) schools' policies/approaches to Islamic customs and beliefs, between.*

*The memo or guidance would have been written by and cascaded from Ofsted senior management at head office. This request excludes memos or guidance issued by the regional teams. This request also excludes any individual communications (e.g. emails) on these topics - i.e. where the communication was not part of general guidance but related to a specific school or matter*

## Annex B

### Exempt Information

The FOI Act describes circumstances in which information is 'exempt' and therefore does not have to be provided in response to a request. On this occasion, we have concluded that the exemptions at section 31 and 33 of the FOI Act apply to the information you have requested.

These exemptions are being used to withhold training materials for our inspection workforce in relation to 'Prevent'.

### Section 33<sup>4</sup>

*Section 33(2) of the Act states:*

*"(1) This section applies to any public authority which has functions in relation to—*

*[...]*

*(b) the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.*

*(2) Information held by a public authority to which this section applies is exempt information if its disclosure would, or would be likely to, prejudice the exercise of any of the authority's functions in relation to any of the matters referred to in subsection (1)."*

For the purposes of the FOI Act, Ofsted's inspection activities are recognised as an audit function, as our published inspection reports hold education providers to account for how effectively they use the resources at their disposal.

We consider that the disclosure of training materials relating to Preventing Violent Extremism ('Prevent') would be likely to harm our audit functions for a number of reasons.

Prevent is a topic which is addressed in standalone training, as well as being a theme that runs through face-to-face and online training sessions delivered to our workforce. The training materials Ofsted has produced since January 2017 are still being used and continue to influence current inspection activities. We consider that, whilst such information is actively being used as a basis to form assessments whilst carrying out live inspections, disclosure of this information to the public is likely to harm our inspection and audit functions.

<sup>4</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/33>

Publicly sharing even *parts* of these training materials would reveal techniques and examples used by inspectors to identify how Prevent is being implemented in schools. We believe that disclosing this information will hamper inspectors in conducting their work, as details of the training received can assist those seeking to mislead inspectors, or may be used to try to disguise failings schools may have in implementing Prevent. This would frustrate efforts to accurately assess how Prevent is implemented in schools and undermine our inspection function.

For the reasons set out above, we believe that the exemption at section 33 of the Act applies to all of this information. However, as section 33 is a qualified exemption, we are required to consider whether or not the public interest in maintaining the exemption outweighs that in release of the information.

There is some public interest in Ofsted publishing our Prevent training materials, as it would help the public to gain a better understanding of how Ofsted approaches these issues. However we believe that there is also a very strong public interest in Ofsted being able to publicly hold schools and other education providers to account through our inspection and audit work. Part of that public interest is supported by Ofsted inspectors being carefully trained how to approach sensitive topics.

Any disclosure of information that would reduce the impact of inspections, or that may allow individuals to mask failings in relation to Prevent or the safeguarding of pupils, would clearly be against the public interest. We are therefore satisfied that the public interest lies in upholding the exemption.

### **Section 31<sup>5</sup>**

Section 31 of the FOI Act provides an exemption to disclosure of information which would prejudice the exercise of functions relating to a range of law enforcement activities.

Sections 31(1)(a)(b) and (g), 2(b) apply to the information you have requested. The parts of the exemption quoted above relate to *"the purpose of ascertaining whether any person is responsible for any conduct which is improper"*.

The Prevent duty guidance<sup>6</sup> is the statutory guidance set out under Section 26 of the Counter-Terrorism and Security Act 2015<sup>7</sup>. This guidance places a duty on certain bodies in the exercise of their functions, to have "due regard to the need to prevent people from being drawn into terrorism". Schedule 6 of the Act sets out the specified authorities – these include maintained schools, academies and free schools and the proprietors of independent schools.

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<sup>5</sup> <http://www.legislation.gov.uk/ukpga/2000/36/section/31>

<sup>6</sup> <https://www.gov.uk/government/publications/prevent-duty-guidance>

<sup>7</sup> <http://www.legislation.gov.uk/ukpga/2015/6/section/26/enacted>



Paragraph 72 of the guidance specifically references that, when assessing the effectiveness of schools, Ofsted inspectors already have regard to the school's approach to keeping pupils safe from the dangers of radicalisation and extremism, and what is done when it is suspected that pupils are vulnerable to these. This means that as part of our inspection functions we are that checking schools are complying with the law in this regard.

If we were to share the content of our Prevent training materials, we would be revealing details about the way inspectors identify concerns during an inspection and would be likely to allow some individuals associated with schools to circumvent the inspection process, should they be minded to do so. Ofsted aims to give little (or no) notice to schools of their inspection<sup>8</sup> because it believes this provides the best conditions for seeing a school in its natural state. As explained previously, we believe that disclosing even part of this information will hamper inspectors in conducting their work, as details of the training received can assist those seeking to mislead inspectors, or may be used to try to disguise failings schools may have in implementing Prevent and therefore complying with the law.

For the reasons set out above, we believe that the exemption at section 31 of the Act applies. However as section 31 is a qualified exemption, we are again required to consider whether the balance of the public interest lies in upholding the exemption or releasing the information.

There is a general public interest in the topic of Prevent and the training and guidance our inspectors receive on the subject. There is, however, a clear and overriding public interest in protecting the effectiveness of our inspection practice, particularly where this involves safeguarding children and ensuring we identify where schools may not be complying with the law. Any disclosure of information that would reduce the impact of inspections, or that may allow individuals to mask failings in relation to Prevent or the safeguarding of pupils, would clearly be contrary to the public interest. We are therefore satisfied that the public interest lies in upholding the exemption.

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<sup>8</sup> Paragraphs 34, 46 <https://www.gov.uk/government/publications/school-inspection-handbook-from-september-2015>