

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 November 2023

Public Authority: NHS Black Country Integrated Care Board

Address: Civic Centre
St. Peter's Square
Wolverhampton
WV1 1SH

Decision (including any steps ordered)

1. The complainant has requested review material in relation to Operation Satchel. The NHS Black Country Integrated Care Board "the public authority" refused to provide the requested information, citing section 38(1)(a) (health and safety) and section 40(2) (personal information) of FOIA.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority has identified all of the information within the scope of the request. The information it does hold is exempt under section 38(1)(a).
3. The Commissioner does not require further steps.

Request and response

4. On 11 April 2023 the complainant requested:

"• A copy of the review which Walsall Safeguarding Partnership, of which the Black Country Integrated Care Board is a part, has decided not to publish related to child sexual abuse offences involving 21

convicted defendants entitled Operation Satchel by West Midlands Police

- A copy of the review material supplied by the Black Country Integrated Care Board to the review which Walsall Safeguarding Partnership, of which the Black Country Integrated Care Board is a part, has decided not to publish related to child sexual abuse offences involving 21 convicted defendants entitled Operation Satchel by West Midlands Police.”
5. On 16 June 2023 the public authority responded, withholding the requested information under section 38(1)(a) and section 40(2).
 6. On 14 July 2023 the complainant requested an internal review.
 7. The public authority provided the outcome to its internal review on 11 August 2023. It confirmed that the whole of the requested information was exempt under section 38(1)(a) and any personal data within it under section 40(2).

Scope of the case

8. The scope of the Commissioner’s complaint is to consider whether the review is exempt under section 38(1)(a). Depending on his view, he may also go onto consider the public authority’s application of section 40(2).
9. The Commissioner will also consider if the public authority has identified all of the information that would fall within scope.

Reasons for decision

Section 1 – information held/not held

10. The public authority has identified one document that falls within the scope of the request, an individual management review (‘the review’) completed by the Walsall Safeguarding Children Board.
11. The complainant’s request clearly asks for a copy of any such review and any material relevant to the review.
12. Therefore, the Commissioner asked why no review material had been identified. The public authority explained:

“The ICB (CCG at the time) usually have a co-ordination role or procurement role, ensuring organisation such as GPs will have

submitted data or complied information, but without the information coming directly to ourselves. It is part of the ICB role to have oversight of Safeguarding procedures within our area, but we don't have involvement in the actual cases themselves as these are managed by the Local Authority."

13. The Commissioner understands that the public authority has a responsibility for overseeing safeguarding in its area, However, it doesn't deal with safeguarding complaints directly. Any such complaints received by an agency (such as a GP) would be passed onto the local authority, not the public authority.
14. The public authority has no lawful basis to process such information and so it follows that it will not hold any such material for the review in question.
15. The review looks at how each agency involved in the case (some of which will fall under the public authority's remit) handled the intelligence that it received. The Commissioner is satisfied this would come under the public authority's jurisdiction, whereas gathering evidence and review material would not. The fact that the public authority processes the review makes sense, because it was carried out by Walsall Safeguarding Partnership and the public authority is part of this partnership.
16. In the absence of any evidence to say otherwise, and on the balance of probabilities, the Commissioner is satisfied that the review is the only information the public authority holds that falls within the scope of the request.

Section 38 – health and safety

17. Section 38 of FOIA states:

- (1) 'Information is exempt information if its disclosure under this Act would be likely to –
 - (a) Endanger the physical or mental health of any individual, or
 - (b) Endanger the safety of any individual.'

18. The public authority is withholding the whole review under section 38(1)(a).

19. In order to engage section 38(1)(a) a public authority must demonstrate that there is a causal link between the endangerment and disclosure of the information.

20. The effect on the individual in question can't be trivial or insignificant. Endangering physical health usually means an adverse physical impact and often involves medical matters and this can relate to either individuals or a group of people. Endangering mental health implies that the disclosure of information might lead to a psychological disorder or make mental illness worse. This means that it must have a greater impact than causing upset and distress.
21. Operation Satchel was a police investigation into a child abuse ring that operated in Walsall and Wolverhampton. As a result 21 people have been convicted.¹
22. The public authority has stated it 'has been made aware by the West Midlands Police and other partners, that threats of intimidation, violence and death have been aimed at those directly involved in this case, including staff and professionals.'
23. The public authority is concerned that disclosure of the report would endanger the physical and or mental health of both the victims to whom the report relates and the staff and professionals who worked on the case.
24. Turning first to the victims, the Commissioner is mindful that the review relates to seven children who suffered extreme abuse, both physical and psychological. These children have undergone extreme trauma. Disclosure of the review would be triggering for them, to a degree far greater than upset and distress.
25. The complainant has argued that 'I believe the risk to the health and safety of the victims at the heart of this case is protected by laws governing the reporting of sexual offences.' The Commissioner understands the victims are entitled to life-long anonymity; however it's not his role to comment on any procedures or processes outside of FOIA. It's only the Commissioner's role to consider whether disclosure of the report would endanger the physical or mental health of any individual.
26. Turning next to the wellbeing of the staff and professionals who worked on the review, the public authority has explained it has 'been made aware by the West Midlands Police and other partners, that threats of intimidation, violence and death have been aimed at those directly involved in this case, including staff and professionals.' The public

¹ [Final four defendants jailed for their part in the largest child sexual abuse prosecution in the West Midlands | The Crown Prosecution Service \(cps.gov.uk\)](#)

authority has provided the Commissioner with information in the public domain that substantiates these concerns.

27. The complainant is concerned that a redacted copy of the review should be disclosed, to mitigate the chances of any harm occurring. The public authority has addressed this and confirmed:

“Although all personal data would be redacted under S.40(2) there is the risk of the ‘jigsaw puzzle’ effect where information pieced together with other publicly available data could allow people to make assumptions about people involved – whether this is correct or not. This means that those individuals, even if they are not the ones referred to within the document could be at risk.”

28. The Commissioner is mindful that the focus of the review is the children; their lives, their health and what they went through. The Commissioner believes it would be extremely difficult, if not impossible, to redact the review in a way that guarantees no victim is identified. The Commissioner agrees with the public authority when it says ‘it may seem that some of the information doesn’t seem obviously relevant, but other information is in the public domain and members of the public, especially around the local area, may also have additional knowledge to piece together’ and this increases the risk of reidentification.
29. Furthermore, in relation to the victims, the Commissioner doesn’t consider that reidentification has to occur for the endangerment to follow. The disclosure of any information from the report is likely to endanger their mental health.
30. In line with his previous decisions², the Commissioner is satisfied the review in its entirety engages section 38(1)(a), on the higher threshold, on the basis that disclosure would endanger the physical or mental health of any individual. He’ll now go onto consider where the public interest lies.

Public interest test

Arguments in favour of disclosure

31. The public authority has acknowledged ‘There is significant public interest in this information, particularly around the confidence in the organisations involvement and processes to ensure this scenario does

² [FS50787185 \(ico.org.uk\)](https://ico.org.uk)

not happen again.' It also acknowledges that disclosure would help address concerns around the safety & welfare of children in the area.

32. The complainant has also put forward these arguments. They're also concerned - 'Currently, the only statements on record from the Walsall Safeguarding Partnership suggested a "recent joint area inspection found that children who need help and protection in Walsall receive a coordinated and effective multi agency response". By not disclosing the requested information, a misleading impression would be allowed to be created that various agencies could not have done anything differently with regards to this investigation which would not accurately reflect the facts of this case.'
33. There is always a general public interest in transparency and in public authorities being transparent and accountable for their actions. Public authorities must open themselves up to scrutiny when there are allegations, or evidence, of maladministration, especially when the consequences have been so significant and life changing.

Arguments in favour of maintaining the exemption

34. The public authority has explained that lessons learnt from the review have already been implemented and therefore disclosure isn't necessary.
35. The factors in favour of maintaining the exemption are obvious. The exemption exists to protect the health and safety of the public; disclosing information which could endanger an individual's mental or physical health is clearly not in the public interest.

The balance of the public interest test

36. The Commissioner has decided that the public interest lies in maintaining the exemption.
37. The content of the review is highly distressing, even for someone who isn't the subject of the review or involved in it in any way. When you consider the potential effects of coupling this information, even a redacted copy, with the vast amount of information that is already in the public domain about Operation Satchel, and in the local area about the victims and the abusers, the public authority is relying on the higher threshold of endangerment. This is relevant when conducting the public interest; the greater the likely endangerment to the physical or mental health or safety of any individual, the stronger the public interest in not disclosing that information.

38. When it provided its refusal notice to the complainant, the public authority provided the complainant with publicly available information³ which it felt met the public interest in the request. At the time of raising their concern with the Commissioner, the complainant stated, "I do not think the information supplied in any of those links is sufficient to allow the degree of public scrutiny I believe is necessary in response to the details I have become aware of during my reporting of this case, and they cannot act as a substitute to the disclosure of this review and the review material which is the only way to satisfy the public interest."
39. Whilst disclosure would increase understanding on the abuse that led to Operation Satchel, it would put the victims, or the individuals involved in the review, at risk. The Commissioner assigns this considerable weight.
40. Furthermore, in handling this request the public authority consulted Walsall Council, Safeguarding Partnership and West Midlands Police. All organisations advised against the disclosure of the review. The Commissioner therefore assigns even more weight to withholding the information.
41. The Commissioner acknowledges the complainant's concerns that the recommendations from the review are largely generic⁴ and do not give any understanding of what happened or why these actions are needed. However, the information that would enhance this explanation is the same information that engages section 38 and this information must continue to be withheld.

³ [Link To The Scr W6 Recommendations Online;](#) [Link To The Csa Strategy;](#) [Link To Walsall Jtai](#)

⁴ [SCR W6 Recommendations \(walsall.gov.uk\)](#)

Right of appeal

42. 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

43. 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.
44. 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

Alice Gradwell
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