

18 August 2017

**Freedom of Information Request - Reference No: 20171316**

**REQUEST**

***Ref the SYP V Cliff Richard Case. 1. Who in the SYP made the decision to settle the Case with Cliff Richard. 2. What was the cost to the SYP Public Purse from the start of the Investigation thru' to the Final Closure. 3. How much compensation did the SYP pay to Cliff Richard.***

**RESPONSE**

South Yorkshire Police hold the information you request. However, we will not be supplying this to you.

Section 17 of the Freedom of Information Act 2000 requires South Yorkshire Police, when refusing to provide such information (because the information is exempt), to provide you the applicant with a notice which:

- a. states that fact,
- b. specifies the exemption in question and
- c. states (if that would not otherwise be apparent) why the exemption applies.

The following exemptions apply to the disclosure of the information:

**Section 40 (2) – Personal Information**

**Section 44 (1)(a)(c) – Information Covered by Prohibitions on Disclosure**

**Section 41 (1)(a)(b) – Information Provided in Confidence**

**Section 22 (1) (a) (b) - Information Intended for Future Publication**

Information is exempt information under S22(1)(a)(b) if the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not). This is a class based exemption and requires me to conduct a public interest test.

Some data you request forms part of South Yorkshire Polices (SYP) Publication Strategy. Please see the following link to the publication scheme for Operation Kaddie that is openly viewable on the SYP website.

<http://www.southyorkshire.police.uk/content/significant-public-interest>

**Favouring Disclosure**

Where public funds are being spent in respects to policing operations, there is public interest in transparency and justification. Disclosure would provide information necessary public comment and debate to take place in real time.

### **Favouring Non-Disclosure**

The publication strategy is comprehensive and has been carefully designed, so that the public will benefit from all of the facts being available at the same time, meaning the information will be in context, and more comprehensive.

### **Balancing Test**

In balancing these factors, the strategy states that staffing figures, costs ,etc. are intended to be provided at a date when all proceedings relating to the operation have been determined as being complete.

*“In the Commissioner’s view, in order to engage section 22, a public authority must be able to show clearly which information within the scope of a request it intends to publish”*

[http://ico.org.uk/~media/documents/decisionnotices/2014/fs\\_50532986.ashx](http://ico.org.uk/~media/documents/decisionnotices/2014/fs_50532986.ashx)

It would not be beneficial at this stage to allocate resources to endeavour to collate answers to the above questions when the information is intended to be collated again in the future.

Therefore, at this time the balance lies firmly in waiting for when it is deemed appropriate to release figures that can be determined to be accurate and complete, as per the publication strategy.

**Section 40** - The definition of personal data is given in section 1(1) of the Data Protection Act 1998 (DPA) as follows: “personal data’ means data which relate to a living individual who can be identified –

- a) from those data, or
- b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller

The information requested clearly both identifies and relates to a living individual. That information is, therefore the personal data of that individual according to section 1(1) of the DPA.

I next considered whether disclosure of the information would be in breach of any of the Data Protection Principles. I focussed on the first data protection principle, which requires that personal data is processed fairly and lawfully, and in particular on whether disclosure would be, in general, fair. I have taken into account what the reasonable expectations of the data subject would be, as well as any consequences that disclosure may have for them. I have also considered whether there is any legitimate public interest in the disclosure of this information. In conclusion I believe a disclosure of information would be unfair and in breach of the first Data Protection Principle, therefore engaging Section 40(2).

**Section 44** - is an absolute exemption, which means that if information is covered by any of the subsections in section 44 then it is exempt from disclosure. There is no need to consider

whether there might be a stronger public interest in disclosing the information than in not disclosing it.

**Section 41** – again is an absolute exemption that covers information provided in confidence. I am aware of a pertinent ICO Decision Notice FS50290042 in which the Commissioner states:

*‘... As the exemption for information provided in confidence is an absolute exemption there is no public interest test to be applied under the Act. However, in deciding whether the exemption applies it is necessary to consider whether an actionable breach of confidence would occur. Case law on the common law concept of confidence suggests that a breach of confidence will not be actionable in circumstances where a public authority can rely on a public interest defence ...’*

The ICO goes on to say:

*‘... In considering whether disclosure would constitute an actionable breach of confidence the Commissioner has adopted the approach to confidentiality taken by the court in *Coco v A N Clark (Engineers) Limited (1968) FSR 415*. In that case it was decided that disclosure would constitute an actionable breach of confidence if:*

- *The information has the necessary quality of confidence;*
- *The information was imparted in circumstances importing an obligation of confidence; and*
- *Disclosure would be an unauthorised use of the information and to the detriment of the confider.*

*To establish an ‘actionable’ breach of confidence, the public authority must establish that an action for breach of confidence would, on the balance of probabilities, succeed. In order to determine this all three limbs of the test of confidence need to be established and whether or not the public authority has a public interest defence to the claim. Information will have the necessary quality of confidence if it is not otherwise accessible, and if it is more than trivial. Information which is known only to a limited number of individuals will not be regarded as being generally accessible, though it will be considered so if it has been disseminated to the general public. Information which is of importance to the confider should not be considered trivial...’*

Bearing this in mind, I am content that this exemption is relevant to any information captured by this request.