

09 January 2013

Dear

**Freedom of Information Act 2000**

Thank you for your request for information under the Freedom of Information Act 2000 dated 13<sup>th</sup> December 2012 in respect of

*"The itemised mobile telephone bill for former Cleveland Police Authority Chairman, Dave McLuckie, for the month which was reported to have cost £1600. I require this information to include telephone numbers in order to ascertain whether the mobile phone was used for unofficial purposes".*

- The information you have requested is attached, however I am unable to comply with that part of your request which requires the inclusion of the telephone numbers, which you will see have been redacted. Please also note that pages A8-A18 of 18 have not been supplied as they relate to other mobile phones held by the former Cleveland Police Authority.

The telephone numbers have been withheld in reliance on two exemptions under the Act. Firstly, Section 31 – prejudice to law enforcement. As you are aware there is an ongoing criminal investigation into the activities of Mr McLuckie and others "Operation Sacristy" which is not yet complete. Premature disclosure of the telephone numbers of those Mr McLuckie was regularly communicating with during the period of the investigation would, or would be likely to, prejudice the prevention and detection of crime, the apprehension or prosecution of offenders and the administration of justice.

Section 31 is qualified by the public interest test, therefore in considering the arguments in favour of disclosure, I have had regard to the presumption in favour of disclosure unless there is a good reason not to, the requirement to demonstrate accountability and transparency in the spending of public funds, enhancing decision making and participation in public life.

Conversely, the arguments against disclosure include the likelihood and severity of harm to the investigation and/or any future criminal proceedings. The information in question is 'live' in the sense that it is part of a major, complex and wide ranging criminal investigation which is not yet complete. Premature disclosure would be likely to prejudice a fair trial and run counter to the strong public interest in protecting the activity of prosecuting offenders.

Having carefully balanced the competing arguments for and against disclosure, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in releasing the information.

The second exemption relied on is Section 40 (2) – Data Protection since it is likely that some of the telephone numbers constitute personal information and disclosure would breach a data subject's right to privacy under the Data Protection Act. In particular disclosure would run contrary to principle 1 *"personal data shall be processed fairly and lawfully..."*, principle 2 *"personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes"*, principle 6 *"personal data shall be processed in accordance with the rights of data subjects under this Act"*.

Section 40(2) is an absolute exemption and not subject to the public interest test.

In the event that you are dissatisfied with this response you have a right of appeal to the Information Commissioner who can be contacted at [www.ico.gov.uk](http://www.ico.gov.uk) or by post to the Information Commissioner's Office, Wycliffe House, Water Lane, Cheshire, SK9 5AF. Telephone 0303 123 1113.

Yours sincerely,

Lindsey Hall, Solicitor  
Office of the PCC for Cleveland