

5th July 2013

Freedom of Information Act 2000 – Request for Information
FS50477863

I refer to your second request for information concerning *"the outstanding information held on Sean Price's alleged gross misconduct which will now not be heard at a disciplinary given his dismissal last week"* and subsequently extended to *"cover the investigation report"* first notified to the PCC on 12th November 2012 and then again on the 21st May 2013.

I can confirm that the Office of the Police and Crime Commissioner for Cleveland holds the information you requested. However we are withholding that information at the present time as we consider that the exemption set out at Section 31(1)(b) of the Act continues to apply.

It remains the case that until the criminal investigation is completed and a charging decision made premature disclosure of the information would serious prejudice the apprehension or prosecution of offenders. Advanced disclosure ahead of any criminal proceedings could lead to contamination of evidence as witness accounts could be tailored or witnesses interfered with. The fact that the misconduct proceedings have now been concluded since your first request does not alter the position. As you are aware misconduct hearings are held in private before a professional panel. As the Commissioner stated in his decision notice dated 16th May 2013 *"it is difficult to see how revealing details of the misconduct proceedings would not have had a prejudicial effect on the criminal investigation. In any event, the exemption is engaged because of the likelihood of prejudice to the apprehension and prosecution of offenders and not solely because it would prejudice the ongoing criminal investigation. As mentioned, disclosure could infringe on the right of individuals to a fair trial and clearly, that would undermine the successful prosecution of the individuals who have been charged with committing offences following the completion of Operation Sacristy"*.

Having satisfied himself that the exemption at section 31(1)(b) was correctly engaged in respect of the disputed information, the Commissioner did not even go on to consider the applicability of the exemption at section 31(1)(g), nor was he obliged to consider the possibility of redacting the disputed information since it was clear that any publication of the information at this time would be prejudicial to the apprehension or prosecution of offenders.

The Public Interest Test

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 arguments against disclosure include the likelihood and severity of harm to the criminal investigation and any subsequent criminal proceedings. 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 and ensuring that those who misconduct themselves in a public office are appropriately dealt with.

I am satisfied that on balance, the public interest in maintaining the exemption outweighs the public interest in disclosing the disputed information.

If you are dissatisfied with this response then you may appeal to the Information Commissioner who can be contacted at 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
OPCC for Cleveland