

30 January 2020

Freedom of Information Request - Reference No: 20200076

REQUEST

I would be grateful if you would provide the following:

1a) How much SYP ultimately paid to Cliff Richard in damages/compensation (or any other term used for settlement outside of a contribution to legal costs).

1b) I would be grateful if you would clarify how the final figure was arrived at if it was ultimately altered due to a requirement the BBC should contribute towards the SYP element of the settlement.

2)a) How much SYP paid to Cliff Richard in relation to Cliff Richard's legal costs.

2b) Again, I would be grateful if you would clarify how the final figure was arrived at in relation to any contribution the BBC was required to make towards SYP's requirement to pay towards Cliff Richard's legal costs.

3) How much SYP paid towards its own legal costs through payments to its own solicitors and counsel. Please identify the amounts to each and identify who they were.

RESPONSE

South Yorkshire Police holds information in relation to your request. However, I will not be supplying this to you in full.

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 exemption applicable to part of questions 1 & 2 falls under Section 21.

Section 21 'Information which is reasonably accessible to the applicant'

Information in relation to questions 1 and 2 is already in the public domain and can be accessed via the following link:

<https://www.judiciary.uk/wp-content/uploads/2018/07/cliff-richard-v-bbc-judgment.pdf>

Question 3

SYP has the benefit of a policy of insurance with an excess of £100,000. Therefore, £100,000 represents the maximum exposure for SYP in respect of our own legal costs in this

claim. DWF were representing SYP in this matter and payments have been made to them. We do not hold the information broken down in respect of individual amounts paid to solicitor and counsel.

Questions 1b and 2b do not appear to be asking for information in a recorded format but instead appear to be asking for opinion and explanation/judgement of 'how the final figure was arrived at'. As I am sure you are aware, Freedom of Information legislation concerns *recorded* information and Public Bodies are not obliged to create data purely to facilitate such requests.

Nevertheless, any further information held and requested in respect of any final costs or contributions made in this case would be exempt under the following exemptions:

Section 40(2) Personal Information
Section 41 (b) Information Provided in Confidence
Section 38 - Health and Safety (1)(a)

Sections 40(2) and 41(b) are absolute and class-based exemptions and as such I am not required to apply the tests in relation to 'Public Interest' or 'Harm'. For clarity, any further declaration of costs paid to Sir Cliff Richard and/or in relation to the case would be considered his personal financial information and would be unfair (a breach of the first Data Protection Principle) to place anything further into the public domain. Similarly, any further declaration of any arrangements in terms of costs would constitute a breach of confidence details of which were agreed during confidential mediation.

Section 38 - Health and Safety (1)(a) is a qualified and prejudiced-based exemption which requires me to provide evidence of Harm and carry out a Public Interest Test.

Harm

It is important to state that a response to a Freedom of Information request is not just published to the requestor, but also to the world due to the potential disclosure on the force Disclosure Log. Any material provided within this response could therefore be potentially viewed by anyone who wished to see it.

Your request asks for further financial costs and details following the High Court Judgement. Whilst there is undoubtedly public interest in the disclosure of any further details, not only are they protected by the Data Protection Act, I do also have a duty to consider the wider implications. A full disclosure under the FOI Act does not take into consideration the wider implications of a random disclosure of further information regarding a case which has undoubtedly caused Sir Cliff Richard a great deal of distress. Indeed, this case has been settled for well over a year (nearly 18 months) and it is well documented in the press that Sir Cliff Richard found the trial (and indeed the entire issue from the search of his premises) difficult and to the detriment of his welfare. To release these figures and raise the whole issue again and arguably cause Sir Cliff Richard further unnecessary harm.

Public Interest Test

Section 38 – Favouring non disclosure

- Further declaration of financial arrangements placed in the public domain are very likely to have a detrimental affect on Sir Cliff Richard's well-being.

- Disclosure would not only be a breach of the Data Protection Act, but could also bring the original case into the forefront of the wider public's minds. This in turn would cause Sir Cliff Richard further distress as he tries to move on.

Section 38 – Favouring disclosure

- The public have a right to know how public money is spent.
- The public would have a better understanding of how financial costs are apportioned between organisations in cases such as these.

Balancing Test

The key test when considering the public interest is to establish whether in all the circumstances of the request, the public interest in disclosing the information is not outweighed by that in maintaining the exemption(s).

I would not wish to cause any further unnecessary distress to Sir Cliff Richard by public release of information which is confidential, personal and may subsequently have the potential of being detrimental to his health and well-being. This would only be offset with transparency and a better understanding of how financial costs may be apportioned.

With this in mind, I am of the opinion that the strongest reason for withholding information is that of non-disclosure. Any further disclosure would not add any additional public benefit, but would be at the expense of the one person it concerns. It is my opinion at this time therefore, the public interest favours non-disclosure and the remainder of the requested information is withheld.