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Theresa Cooper
request-9216-172d1802@whatdotheyknow.com

Date: 25th August 2009

Tel No. (DDI) 01622 664413

FOI Ref. 1955/2009

Dear Ms. Cooper,

INFORMATION REQUEST 1955/2008

I write in connection with your request for information received by Kent Police on the 11th March 2009. I am very conscious that this response finds you some time after the statutory time limit permitted to a public authority for dealing with requests has passed and for the lateness of this response I apologise.

I have discussed with you in our telephone conversation some of the reasons for this delay, which has been principally caused by a combination of recent staffing difficulties in this unit, coupled by an increase in the workload associated with FOI requests.

However, the delay has also been caused by the time it has taken me to compile information relevant to your request, and examine it in order to arrive at a conclusion concerning how much of this information can be released. When digesting this response, please bear in mind that this release represents the information that I have determined it is appropriate to release into the public domain at this time, and this response also takes into account that the fact that some information concerning this investigation has also been previously released by Kent Police via press releases to the media.

In your request, you asked for the following information, and I have numbered your questions as follows for ease of reference;

1) How many girls did Kent Police interview/take statements from out of over ten Kendall House girls that contacted Kent Police?

2) What crimes to Kendall House girls were fully investigated by the police and what was the nature of the investigations?

3) How many complaints, sexual abuse, forced drug abuse, physical abuse and mental abuse were made to Kent Police stations from KH girls between 1970 -2009 and what were the results of those complaints/allegations?

4) How many deaths at Kendall House did Kent Police have to respond to during 1970-1986?

Question 2 relates to allegations of physical and sexual abuse that were made concerning the treatment of young females who were held in care during the 1970s and 1980s at Kendall House in Gravesend, a residential home for adolescent females, who, because of a variety of difficulties and problems that they were experiencing, required a high level of supervision. The allegations principally concerned restraint and control techniques employed, which included a drug treatment regime that was the subject of considerable media interest and criticism from some quarters. However, the methodology was recognised and common in England and Wales at the time, although it is no longer the practise.

Kent Police records show that specific allegations of abuse, including sexual abuse, at Kendall House were not made until 1999, and related to a period almost two decades earlier. After an initial investigation, which included some arrests and interviews, a detailed case file was submitted to the Crown Prosecution Service (CPS), who recommended no further action.

In late 2006, the allegations were raised again (by the same party) and in the summer of 2007, Kent Police undertook a second investigation into the matter under the operational name of NOVA. This was a thorough investigation that reviewed previous allegations and how they had been dealt with, and also sought and interviewed further witnesses who had come to light. A file was again submitted to the CPS who determined once again that there was insufficient evidence to support a prosecution.

Questions 1 and 3 ask for information concerning how many girls who were resident at the home were interviewed in relation to these alleged offences. This information was held for the purpose of an investigation, and it therefore engages the exemption at Section 30 of the Freedom of Information Act 2000. The relevant subsections are included below:

30 - Investigations and proceedings conducted by public authorities

(1) Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of—

(a) any investigation which the public authority has a duty to conduct with a view to it being ascertained—

- (i) whether a person should be charged with an offence, or*
- (ii) whether a person charged with an offence is guilty of it*

2) Information held by a public authority is exempt information if—

(a) it was obtained or recorded by the authority for the purposes of its functions relating to—

(i) investigations falling within subsection (1)(a) or (b),

(b) it relates to the obtaining of information from confidential sources.

However, this exemption is a qualified exemption, meaning that it is subject to a public interest test, which follows.

In favour of disclosing the information is the principal of accountability, in that releasing the information would help to inform the public whether the investigations interviewed a sufficient number of witnesses who may have been able to provide information that could support the allegations.

This must be balanced against the issue that to provide the numbers of girls who were interviewed could identify to other persons (who may have knowledge of the allegations) that individuals did or did not come forward. Any contact between a witness and the police is conducted with an expectation of confidentiality and so section 30(2)(b) is clearly engaged. A decision whether or not to contact the police would have been a matter for the individual and their decision must be respected.

Furthermore we must consider the presumption of innocence that lies at the heart of the criminal justice system and the rights of persons interviewed in relation to these allegations, which concern offences alleged to have occurred nearly twenty years previously. It may not be right for Kent Police to release information that could contribute to these allegations remaining in the public domain when thus far they have been uncorroborated.

When considering that this matter has been examined in detail at least twice, and that on both occasions the CPS have determined that it would not be in the public interest to mount a prosecution, I have no choice but to concur with their view and conclude that it would not be in the public interest to release detailed information connected with this investigation, and therefore Kent Police are exempt from the duty to provide this information.

However, Kent Police can confirm that all witnesses who came forward were interviewed and all available evidence has been considered. Further, the Kent Police Serious Case Review team has recently examined the investigation and concluded that it had been very detailed and thorough. I note also that the case files remain open and that Kent Police have, via press releases, invited any persons who may have fresh evidence to contact crimestoppers or the North Kent Public Protection Unit.

4) How many deaths at Kendall House did Kent Police have to respond to during 1970-1986?

Section 1 of the freedom of Information Act 2000 defines the general right of access to information held by public authorities.

(1) Any person making a request for information to a public authority is entitled—

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request,

The Freedom of Information Act provides access only to recorded information that is held by the public authority and no specific information is held by Kent Police regarding this part of your request. There is every likelihood that Kent Police may have investigated deaths at Kendall House during the period specified, for example a suicide or an accidental death. However, as our systems at that time were entirely configured for the handling of individual cases rather than the provision of statistical information, and any information relating to the above will have been archived and then, in most cases, destroyed, we would simply be unable to locate information that may answer this question. Further, we would have no way of knowing if other information had existed and then been destroyed because it no longer served a purpose to policing, such as, for example, case notes regarding the initial investigation into a suspicious death where it was then established that the cause of death was suicide.

The registrar of births, deaths and marriages would be one possible route to this information as 'place of death' would be recorded on death certificates. However, this would not assist where the deceased was pronounced life extinct in a hospital. Further, it is possible that, where an inquest was held into a death in unexplained circumstances an inquest may have been conducted resulting in the Coroner's office holding some information in regard to this.

However, I have discussed the matter with the North Kent Coroners and can inform you that any files older than 15 years, which would be the case here, would be sent for archiving and in most cases where the archivists can detect no obvious public interest in retaining the information, the file would be destroyed.

It is my view that to determine whether Kent Police or any other authority held this information would involve the retrieval of archived records, which would itself incur a cost, and then the detailed manual investigation into the records that remained. Such an exercise would more than likely extend beyond the reasonable limit both in money and time that an authority is required to invest in responding to a request, currently £450 or eighteen hours as set out in the Freedom of Information (Fees and Appropriate Limit) Regulations 2004. Further, even if such a review of records were carried out, the exercise would still fail to yield an accurate answer, as it is possible if not likely that some relevant records will have been destroyed. Therefore, even to determine whether the authority held records in order to comply with our duty under section 1 of the Act would extend beyond the cost limits and would still be likely to fail. This would therefore be subject to the exemption at section 12 of the Act as follows;

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

FOIA, Section 12 - Exemption where cost of compliance exceeds appropriate limit

Thank you for your interest in Kent Police. A sheet, which summarised your rights, was enclosed with the acknowledgement sent to you and as suggested therein, should you have any further questions concerning your request, please contact me quoting the reference number shown above.

If you feel your request has not been properly handled or you are otherwise dissatisfied with the outcome of your request, you have the right to complain. We will conduct an internal review to investigate the matter and endeavor to reply within 20 working days. If your appeal concerns the decision to apply an exemption, it would assist the review if you would outline why you believe the exemption does not apply.

You may submit your complaint by writing to:

Head of the Information Compliance Unit
Professional Standards Department
Kent Police Headquarters
Sutton Road,
Maidstone Kent
ME15 9BZ

Or by e-mailing
freedomofinformation@kent.pnn.police.uk

If you are still dissatisfied following our internal review, you have the right under section 50 of the Act to complain directly to the Information Commissioner. Before considering your complaint, the Information Commissioner would normally expect you to have exhausted the complaints procedures provided by Kent Police.

The Information Commissioner can be contacted at:

FOI Compliance Team (complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Yours sincerely,

Nigel Amos
Freedom of Information Adviser