



**Kent
Police**



Mr Tom Deacon
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E-mail: freedomofinformation@kent.pnn.police.uk

Date: 4 January 2013

FOI Ref: 12/12/752

Dear Mr Deacon,

Freedom of Information Request 12/12/752

I write in response to your request for information under the Freedom of Information Act 2000 received on 4 December 2012:

1) *Any recorded information Kent Police may hold on investigating allegations of criminal offences committed by individuals within the MoD or HM Forces.*

This question is not considered to be a valid request for information as it is very broad and does not specify exactly what information you are requesting, currently this is a "catch all" type question.

Please be aware that even if this question were refined to request the number of criminal allegations made to Kent Police against individuals serving within the Ministry of Defence HM Forces this question would engage a cost exemption at Section 12 of the Freedom of Information Act 2000 as there is no way of retrieving the relevant information within the cost limit – which the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 set at 18 hours work.

2) *Any recorded information that falls within the scope of the Freedom of information act with the reference (incident reference number provided).*

The information held under the incident reference number provided constitutes your own personal information and therefore is exempt from release under the Freedom of Information Act by virtue of Section 40(1) which relates to 'personal information'. An excerpt of the relevant legislation can be found below:

Section 40 – Personal information

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

Section 40(1) is a class based and absolute exemption, meaning that it refers to a class of information (in this case 'personal information') and does not require us to consider the public interest in disclosing such information under the Freedom of Information Act – which releases information into the public domain.

Please be aware that the release of personal information into the public domain via the Freedom of Information Act is likely to breach the Data Protection Act 1998. In any case there are relevant provisions within the Data Protection Act 1998 which allow an individual to privately request any information a public authority holds about them. This is explained further on the Kent Police web-site via the following link:

www.kent.police.uk/about_us/foi/data_protection/Subject%20access%20-%20wha.html

Should you wish to make a Subject Access Request for any information Kent Police holds about you then the relevant forms can also be downloaded via the above link.

3) *If a crime committed by someone within HM Forces was reported to Kent police can I request any policy, guidelines or recorded information that you hold on who would investigate and how you would go about it? (I imagine certain serious cases eg murder, rape ect would be more likely to fall within the scope of Kent police, and others would be handed to the MoD)*

This question is substantially similar to a previous request that you made to Kent Police on 14 November 2012, which stated: *Does the police have any powers to investigate our armed forces, can I request any policy that states they are unable to do so?* In our response issued to you on 10 December 2012 we provided you with a web-site link to the Kent Police policy for dealing with allegations against armed forces personnel.

As this request is substantially similar to your past request we are not obliged to provide a response to this question by virtue of Section 14(2) of the Freedom of Information Act 2000 which refers to 'repeated requests'. An excerpt of the relevant legislation can be found below:

Section 14 – Repeated Requests

(2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

4) *Can I request any recorded information on how my reported crime by individuals within the RAF and MoD (incident reference number provided) is progressing and at what stage it is at? The link below is a copy of my RAF Police interview:*

www.yousendit.com/download/WUJic0wzTmF0d0hWUThUQw

At the conclusion of the interview the RAF police officer can clearly be heard stating "forms" to seal the master tape before correcting himself to say "form"

As explained within our above response to question 2, information held under the incident reference number provided constitutes your own personal information and is therefore exempt from release under the Freedom of Information Act by virtue of Section 40(1) which relates to 'Personal Information'.

5) *Can I request where I can find the PACE interview procedures that state the procedure to seal a master tape?*

The Police and Criminal Evidence Act (PACE) and the PACE codes of practice provide the core framework of police powers and safeguards around stop and search, arrest, detention, investigation, identification and interviewing detainees. Codes E and F detail the practice of recording and sealing master recordings, these can be found via the Home Office web-site at: www.homeoffice.gov.uk/publications/police/operational-policing/pace-codes/

6) *Given that at the conclusion of the interview I did as I was ordered and signed two forms would this be considered a breach of the service police codes of practice?*

The Freedom of Information Act entitles an individual to information held by a public authority, subject to the application of exemptions. This question asks for information in relation to a situation that does not involve Kent Police. Kent Police therefore holds no information in relation to this question.

7) *After a complaint that my interview tapes had been tampered with and I believed that a portion of the tape had been removed at 1:50 (to hide the fact I was ordered to waive my right to legal representation) and again at 14:40 the RAF police PSD opened a master tape and refused any*

*further investigation. Upon request to carry out further investigation due to the fact that two master tape seals were created I was responded two with no reply before finally being sent:-
"Dear Mr Deacon
5 November 2012*

I am replying to your correspondence to OC PSD dated 16 August, RAFF HQ DMP and OC PSD RMP both dated 26 September, your request via Ask a Minister on 29 September, your requests via Whatdotheyknow.com on 29 September and 16 October, your email to [name removed] on 3 October and your email to [name removed] on 25 October regarding your conviction for Criminal Damage. The Department has responded to your correspondence on this subject on numerous occasions since 21 October 2011 and has nothing further to add on the subject. In these responses the Department's position has been made clear and no further purpose will be served by continuing the correspondence. Consequently, all MOD Staff have been instructed not to reply to any further communication from you on this subject, due to the disproportionate diversion of resources caused to the RAF Police and Air Command staffs. You should note that any further correspondence from you on this subject will be filed unanswered.

Yours sincerely [Original signed]

[name removed]

Head of Secretariat"

Can I request any recorded information that would suggest [name removed] Head of Secretariat is above the law and not able to be investigated by Kent Police.

Kent Police holds no information in relation to this question.

8) *During a recent phone call to the RAF police, a police officer admitted that my tapes were edited but stated the matter was out of his hands. Can I request any information as to who is above the law in the MoD?*

Kent Police holds no information in relation to this question.

9) *I allowed myself to be bullied in an RAF police interview and did as I was told. I nearly blurted out that I wanted a solicitor during the interview at around 4 mins, but I lost my bottle and did not want to get in trouble. (Those who serve in our armed forces may understand a little). I was later found guilty in a summary hearing that I had no idea would count as a criminal conviction, a system slammed recently by the Service Complaints Commissioner to the Defence Select Committee as not a fair trial:*

www.publications.parliament.uk/pa/cm201213/cmselect/cmdfence/writev/service/service.pdf

I genuinely feel that I was bullied by those in authority and disillusioned that the MoD are covering up their criminal misconduct. They are bullying Sailors, Soldiers and Airmen into accepting criminal convictions from summary hearings with a 90% conviction rate, sometimes with edited interview tapes. Can I request Kent Police's policy on bullying those who serve in the police?

Kent Police policy 'L02 Personal Harassment' can be viewed via the Kent Police web-site at:
www.kent.police.uk/about_us/policies/l/l002.html

As this information is already reasonably accessible by other means our requirement to communicate the information to you in this response letter is exempt by virtue of an exemption at Section 21(1) of the Freedom of Information Act 2000. An excerpt of the relevant legislation can be found below:

Section 21 – Information accessible to applicant by other means

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

Section 21(1) is a class based and absolute exemption, therefore we are not required to consider the public interest in disclosing such information under the Freedom of Information Act.

Since your request was made to Kent Police on 4 December 2012 you have contacted us on 2 further occasions under the same reference.

On 7 December 2012 you sent an e-mail as follows:

"Dear Freedom of Information Freedom of Information, This is a written question posed to the MoD by Rt. Hon. Moon MP www.theyworkforyou.com/wrans/?id=2012-12-06a.130549.h&s=speaker%3A11450#g130549.q0M Given I have tried making a complaint to the Service Complaints Commissioner (complaint not accepted due to being submitted out of time) and that an allegation of criminal misconduct was submitted to the RAF police and has not been responded to. Will Kent Police now investigate my allegation?"

On 13 December 2012, following an e-mail that you received from the Kent Police Professional Standards department which explained that Kent Police cannot investigate misconduct within the MOD and Royal Air Force, you sent an e-mail as follows:

"Could Kent police ask the MoD to investigate or begin an investigation to see if my allegation has any merit to hand over to the MoD?"

To assist you a brief summary of the roles and responsibilities of Home Office police forces, the Ministry of Defence Police and Service Police can be found on the Home Office web-site via the following link:

www.homeoffice.gov.uk/about-us/corporate-publications-strategy/home-office-circulars/circulars-2008/028-2008/

To be clear and as already explained to you by the Kent Police Professional Standards Unit, Kent Police can not investigate misconduct within the Ministry of Defence HM Forces.

The Freedom of Information Act is not an appropriate means to further complaints and unless you are requesting information that is likely to be held by Kent Police I would advise that you cease making similar related requests to Kent Police as there is a possibility that any further requests would attract an exemption at Section 14 of the Act which relates to 'Vexatious or repeated requests'.

Thank you for your interest in Kent Police. If you have any queries about your request or the application of the Freedom of Information Act generally, please contact this office quoting the reference number above.

Yours sincerely,

Charlotte Pickin

Senior Freedom of Information Administrator

Your right to complain

We take our responsibilities under the Freedom of Information Act seriously but, 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 endeavour 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 lodge your complaint by writing to:

Freedom of Information
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