

Crown Office to face inquiry for ‘failing child abuse victims’

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Part-time sheriff John Halley aired his concerns in a detailed report to the chairwoman of the inquiry, Lady Anne Smith

PRESS ASSOCIATION

An inquiry into historical child abuse is expected to investigate alleged failures by Scotland’s prosecution body to protect vulnerable children in care, The Sunday Times has learnt.

The Crown Office and Procurator Fiscal Service said it anticipates being a focus of future investigation by the Scottish Child Abuse Inquiry (SCAI).

Last night, the body appeared to welcome scrutiny of past “practices and policies” that it conceded may have been “deficient”.

“It is anticipated that future stages of the inquiry will require the institutions charged with the investigation and prosecution of crime to face up, candidly and critically, to the practices and policies of years gone by,” said a Crown Office spokesman. “In understanding and acknowledging the deficiencies of the past, lessons can be learnt for the future.”

The disclosure comes after a lawyer appointed to the inquiry raised concerns that vulnerable young people in care were let down by a prosecution policy that he believes failed to prevent sexual exploitation through prostitution.

John Halley, an advocate and part-time sheriff, aired his concerns in a detailed report to Lady Anne Smith, chairwoman of the inquiry. On Friday, it was sent to the procurator fiscal in Selkirk who is understood to have passed it to Lindsey Miller, the deputy crown agent for serious casework.

Halley, who has been absent from the inquiry through illness since 2016, cites several cases that never made it to court despite evidence of trafficking and sexual abuse of children in care. Some victims were linked to senior figures within the legal establishment.

Halley questions whether the dropping of these cases was part of a prosecution policy, introduced in 1991, that concluded it was not in the public interest to pursue clients of male prostitutes as young as 16 who had previously engaged in homosexual acts.

Halley contends it may have facilitated the trafficking of young people in care. Halley went public on Friday amid fears that the SCAI did not share his concerns.

“I will not be complicit in, nor tolerate, cover ups and failure to report or to investigate systemic failures, including prosecution policy failures, which appear to have perpetrated injustice on vulnerable young people in care in Scotland,” Halley wrote in a statement released on Twitter.

“I will not permit the serious allegations . . . of past child exploitation, and failures to report suspicions of child exploitation, by lawyers, judges, public figures and others, to be ignored.”

Sources close to the SCAI, which was established in 2015, suggested that Halley’s concerns are misplaced and that the Crown Office is not exempt from scrutiny.

A spokeswoman for the SCAI, said: “The inquiry’s investigations into the abuse of children in care in Scotland are ongoing. We take all reports of abuse very seriously and will always consider such information carefully and further investigate it where appropriate.”

Halley points to a 1993 report by William Nimmo Smith, a Scottish QC, into an alleged secret network of gay lawyers and judges who, it was claimed, used blackmail to win favourable decisions.

Nimmo Smith dismissed these claims, but nevertheless highlighted a case in which some of the charges involved the abduction, drugging, rape and trafficking by a group of men in Edinburgh of a 16-year-old boy, referred to as M, returning from leave to a residential care home.

All but 10 of the 57 charges against multiple accused were dropped by the Crown. Halley also highlights a 1997 review carried out by Roger Kent, a former director of social work, on behalf of the government.

Kent examined the protection of children living away from home and acknowledged that young people in care in Scotland, particularly teenagers, were at risk of being drawn into prostitution.

Halley questions why Kent made no reference to Nimmo Smith’s report and concludes there may have been “multiple failures, at every level, to report suspicions and evidence of trafficking of children in care through prostitution”.

Dr Sarah Nelson, a specialist on child sexual abuse at Edinburgh University, said: “I think the crown’s response is positive and I welcome transparency on why certain cases were not fully prosecuted.

When someone is at, or over, the age of consent, it doesn’t necessarily follow that consent can be assumed. Young people in care, many of whom have suffered prior sexual abuse, are vulnerable.”

The Crown Office said: “[We] consistently and successfully prosecute historical allegations of abuse of children in care. [We are] committed to supporting the inquiry, including its consideration of the extent to which failures by state institutions to protect children in care in Scotland from abuse have been addressed by changes to practice, policy or legislation.”