Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021

2021 asp 3

The retention service

7 Return of certain items of evidence

(1) This section applies where evidence collected during a forensic medical examination carried out by virtue of section 2(2)(b) and stored by a health board under section 6 includes an item which was worn or otherwise present during the incident which gave rise to the need for the examination.

(2) The person who underwent the examination may request that the item be returned to the person.

(3) Subsection (4) applies—

(a) where the health board is not satisfied that the requested item belongs to the person who made the request,

(b) where the health board considers that the requested item should not be returned to the person on safety grounds,

(c) where a request under section 9(2) for the transfer of the requested item to a constable—

(i) was made before the making of the request under subsection (2), or

(ii) is made after the making of the request under subsection (2) but before the requested item is returned to the person.

(4) The health board must—

(a) refuse the request, and

(b) except in a case mentioned in subsection (3)(c), explain the reason for the refusal to the person who made the request as soon as reasonably practicable.

(5) Otherwise, the health board must comply with the request as soon as reasonably practicable.