



LETTER SENT BY E-MAIL ONLY

17 July 2023

2023/24-020

Freedom of Information (Scotland) Act 2002

Request

Please find below our response to your correspondence dated 1 July, in which you made the following request under the Freedom of Information (Scotland) Act 2002:

I am interested in finding out how long Scottish Police Authority are required to store samples taken from a Crime Scene that have not yet been tested but may contain DNA, if a person has been convicted of the crime but is claiming their innocence?

I am also interested in finding out if the convicted person's legal representative is able to request and obtain any untested samples to be tested at a laboratory of their choice?

Response

Your request for information has been considered and the Scottish Police Authority is able to provide the following.

SPA Forensic Services only keep samples collected from a crime scene that have been tested. Samples taken from a crime scene that have been submitted to Forensic Services and not examined go back to the Procurator Fiscal with the rest of the case, via the Police.

A convicted person's legal representative has the right to request and obtain any untested samples to be tested at a laboratory of their choice. This is normally done by the representative contacting the Procurator

Fiscal in charge of the case in the first instance. The SPA Forensic Services Defence Access policy has been developed to ensure that defence agents and independent forensic science experts have consistent, fair and transparent access to productions and specific information held by the organisation.

The information requested can reasonably be obtained. Therefore this represents a notice in terms of Section 25 of the Freedom of Information (Scotland) Act 2002 - the authority considers that the information is already available, therefore there is no need to provide an alternative right of access to it through FOISA.

The SPA Forensic Services [Defence Access Policy](#) is published on our website. The document is a summary of the Standard Operating Procedure implemented at all SPA Forensic Services sites when defence access to productions and information held by SPA is granted by the Procurator Fiscal.

Right to Review

If you are dissatisfied with the outcome of your request you can ask for a review. You must specify the reason for your dissatisfaction and submit your request by email to foi@spa.police.uk or by letter to Scottish Police Authority, 1 Pacific Quay, Glasgow, G51 1DZ.

After review, if you remain dissatisfied, you can appeal to the Scottish Information Commissioner within six months. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by letter to Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Commissioner's decision, you can appeal to the Court of Session, only if you think the law has not been applied correctly.

An anonymised version of this response will be posted to our [Disclosure Log](#) in seven days' time.