

Faculty of Forensic & Legal Medicine

Sexual offences: POST-PUBERTAL complainants

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The medico-legal guidelines and recommendations published by the Faculty are for general information only. Appropriate specific advice should be sought from your medical defence organisation or professional association. The Faculty has one or more senior representatives of the MDOs on its Board, but for the avoidance of doubt, endorsement of the medico-legal guidelines or recommendations published by the Faculty has not been sought from any of the medical defence organisations.

The flow chart overleaf must only be used after consideration of the following:

If the complainant is a child, i.e. under 18 years of age, this flowchart is for the use of relevant forensic clinicians and paediatricians. It is also important to consider who holds parental responsibility.

If the complainant is an adult, i.e. over 18 years of age, this flowchart is for the use of forensic clinicians.

It is intended to help the decision making process when considering if a forensic medical examination is warranted between the hours of midnight and 7am, or can wait and be done by the day team.

It is intended as only a guide. Decisions must be made on a case-by-case basis as to whether an earlier examination is required, with consideration given to external factors as necessary. Record clearly details of any discussions and decisions made, including their rationale.

Wherever there is doubt, a discussion should take place between the referring party (usually the investigating officer), the forensic clinician on call and/or paediatrician, as appropriate.

The needs of the child should always be paramount as is also the case for an adult complainant.



In all cases consideration must be given to:

1. General welfare of young person/complainant.
2. Medical needs including;
 - a. Injuries
 - b. Emergency contraception
 - c. Post-exposure prophylaxis
 - d. Advice on STI screening
3. Safeguarding issues including child protection issues.
4. Early Evidence, including Early Evidence Kits (EEKs).

Has a Sexual Offence Medicine (SOM) trained Forensic Clinician/Paediatrician with the requisite training, experience & qualifications considered these issues?

Yes

Has there been oral, vaginal or anal – penile or digital penetration or ejaculation on the body surface?

No

Consider waiting until the morning if issues in Box A have been considered and don't indicate an earlier examination

No
See next page for more guidance*

Within the last 12 hours?

Yes

Reconsider these factors

Yes

Wait until not intoxicated
In the meantime consider other forensic opportunities such as EEK, clothing etc

Yes

Is the complainant intoxicated to a degree that they do not have capacity to consent to a forensic medical examination?

No

Examine without delay, including out of hours

Box A

1. The extent of allegations in terms of sexual activity are known.
2. Relevant early evidence collection, including EEKs has been undertaken.
3. Any delay will not significantly compromise opportunity to obtain trace evidence, e.g. if the complainant defecates or showers.
4. Providing that the delay does not push the examination outside any of the maximum time frames for relevant forensic samples as per the most recent FFLM *Recommendations for the collection of forensic specimens from complainants and suspects*. Remember the chances of obtaining trace evidence are not consistent within the recommended maximum time frames, but decreases within that timeframe, reducing the likelihood of recovery. Washing, wiping, urinating, defecating, contact with clothing and bedding etc. will affect the retention of evidence.



* **The decision as to whether or not the forensic medical examination can be arranged for a later time/date so as to avoid it being completed out of hours** should always be based primarily on patient welfare given the case circumstances. However, after sexual intercourse semen/DNA is lost from the vagina/anus over time (as well as other body orifices and skin surfaces), and therefore, if forensic sampling is to be carried out, it is prudent to consider the number of days that have already passed since the alleged incident, before incurring a further delay.

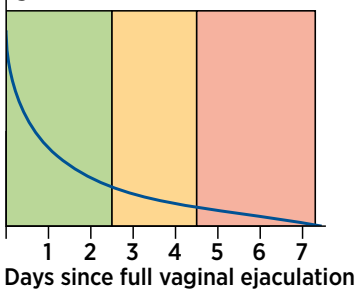
To determine the potential impact of delaying the forensic medical examination on the recovery of semen/DNA from the vagina/anus following intercourse, the forensic clinician should calculate how many days have passed between the allegation and the date/time of the proposed medical examination.

If the proposed forensic medical examination date falls in the:

- **Red zone**, do not delay and complete an out of hours examination wherever possible.
- **Amber zone**, delay with caution (and where approaching the red zone consider explaining the risk of the delay to the patient and if possible complete an out of hours examination).
- **Green zone**, there is less need for an out of hours examination when considering the recovery of semen (but remember other considerations such as emergency contraception, HIV PEP, injury healing etc).

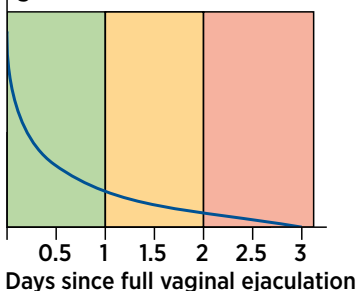
When considering vaginal swabs

Graphic representation of the generic loss of semen over time



When considering anal swabs

Graphic representation of the generic loss of semen over time



Please note these graphs relate to the possible recovery of semen and are based on the generic experience of forensic scientists rather than any controlled tests/data and consider the inherent variation between individuals/ejaculates.

Many factors affect the recovery of semen/DNA but key factors such as washing and activity, including the effect of gravity, should be considered when making the decision to delay. Conversely, the maximum time frames can be extended if the impact of these factors may be reduced due to the individual's behaviour/mobility or hygiene standards.

For papers which relate to this topic please refer to the FFLM document:

Recommendations for the collection of forensic specimens from complainants and suspects – the evidence

In the absence of detectable semen/sperm cells a test for male cellular material may be considered on any swabs recovered. This testing (Y-STRs) typically has a better chance of success if the swabs are recovered within 2 -2.5 days of penetration of the vagina or 1-1.5 days from penetration of the anus.

Consideration should also be given to the potential loss of material/evidence transferred during other activities, such as skin-to-skin contact, oral sex, sex without ejaculation or digital penetration, with which persistence times of DNA would generally be much lower. Additionally, consider whether an individual is likely to engage in activities that would accelerate loss of transferred material (i.e. bathing or changing sanitary wear) if the medical examination was to be delayed.