

purposes. Even this limited right is now questionable in the case of relatives in general (unless they are also executors or otherwise under a legal duty to dispose of the body) as a result of the decision of the Court of Appeal in Dobson and Dobson -v- North Tyneside Area Health Authority and Others (1996) discussed in detail below. After disposal of the body (which it seems means the recognisable body as such and not every part of it) the right to possession - previously vested in the executors or relatives for the limited purpose of disposal - is no longer extant, even if parts of the body have been retained.

Various statutes regulate removal of organs or tissue from the body of a deceased person and their subsequent use and retention, most importantly the Human Tissue Act 1961. The 1961 Act provides a scheme by which body parts may be removed after death on the authority of the person in lawful possession of the body, either where the deceased made a request to this effect prior to death or alternatively where the deceased did not express an objection and where the surviving spouse or relatives do not object. Where authority is given under the 1961 Act, this will relate to specified body parts or to body parts in general for a particular purpose. Furthermore, the 1961 Act provides for post mortem examination of a body where the deceased did not object and the surviving spouse and relatives do not object. The wording of the 1961 Act is framed not in respect of consent by relatives, where appropriate, but in terms of a lack of objection, which suggests a presumption in favour of removal of organs or tissue for the specified purposes or for examination.

Where a post mortem examination is directed by a coroner, no consent from the relatives is required and the examination may take place even in the face of firm objections from relatives. However, for this purpose, the examination is concerned with establishing the cause of death and is limited to providing evidence to establish who the deceased was and how, when and where he came by his death. Organs or tissue may be retained following completion of the investigations until the inquest, if they are felt to bear upon the cause of death. Following an inquest, the coroner has no standing to authorise further retention or use of organs or tissue removed from the body of the deceased. Removal of organs or tissue for purposes unrelated to the coroner's enquiries requires an authority under the 1961 Act.

During a hospital post mortem examination authorised under the 1961 Act, it is again likely that organs or tissue will be removed for the purposes of legitimate enquiries into the cause of death, the presence of other pathology present in the body which did not contribute to the death and