

- grounds for refusal that the Coroner's authorisation may be withheld. Coroners may forbid such extra samples to be taken even when the relatives' consent, but cannot authorise them without their consent.
- 4.6 There will be occasions when, during the course of a Coroner's post-mortem examination a pathologist discovers a condition which has no bearing on the cause of death, but believes it should be investigated further in the best interests of the deceased's family. For example, post-mortem examination may reveal a possible hereditary disorder incidental to the cause of death, but with implications for other family members. In these circumstances appropriate samples should be retained, unless there are particular religious or cultural reasons why this should not be done, and testing deferred until relatives have given permission. If this involves a whole organ then every effort should be made to contact relatives before release of the body (see paragraph 3.12).
- 4.8 In some criminal proceedings, the Crown Prosecution Service may demand that relevant material be retained until the legal process of trial and appeal is completed.
- 4.9 Where civil litigation is in prospect, relatives should be advised to seek legal advice which would include a recommendation as to whether it would be desirable to retain certain tissues or organs.

#### Arrangements in Scotland: the Procurator Fiscal

- 5.1 The Procurator Fiscal system is unique to Scotland, and differs from the medico-legal system elsewhere in the UK. However, the law surrounding retention of tissue at post-mortem examinations in Scotland is similar, although the practices of individual Fiscals may vary.
- 5.2 The Procurator Fiscal's remit is somewhat wider than that of the Coroner: their role in common law is to determine the cause of death in uncertified and suspicious deaths, to exclude foul play and criminality in relation to any death, to allay public anxieties about any deaths and to maintain accurate death statistics. They will specifically authorise the removal of organs and tissues at the time of the post-mortem examination for laboratory studies such as neuropathology, microbiology, toxicology, etc. as required to determine the primary and contributory causes of death. They will take full cognisance of objections to an autopsy by the bereaved relatives and indeed can totally dispense with an autopsy in determining the cause of death.
- 5.3 No inquests are held in Scotland and, solely in relation to deaths at work due to the occupation of the deceased or deaths in custody, a Fatal Accident Inquiry (FAI) is