

Consultation paper: *Guidelines for the retention of tissues at post-mortem examination*

- mandatory. In other instances, which are quite infrequent, the FAI is at the discretion of the Lord Advocate — the most senior legal official in Scotland.
- 5.4 Bodies are released as soon as possible after the death has occurred even in cases of homicide, and most frequently within a maximum of a two weeks from death.
- 5.5 In cases of interest to the Procurators Fiscal, they have the right to prohibit any organ or tissue harvesting for transplantation purposes.
- 5.6 The Procurators Fiscal cannot authorise the removal of organs and tissues for research or teaching purposes, and if such material is required, the additional separate consent of the next of kin of the deceased must be sought specifically.

Disposal of tissue retained at post-mortem examination

- 6.1 When a post-mortem examination has been completed and the report authorised, a decision must be made about the fate of any retained tissue. In the case of hospital post-mortem examinations, consent may be assumed to extend to archiving tissue blocks and disposal of any residual wet tissue as for surgical specimens. If consent was obtained for the retention of a whole organ, then its ultimate fate should have been discussed at that time. This could be to return it to the undertaker acting for the relatives, to archive it, or for the hospital to dispose of it in the same way as surgical specimens after a predetermined interval.
- 6.2 We recommend that all histopathology and forensic pathology services have written protocols for the disposal of tissues including regular review of tissue stores and maintenance of accurate records of the disposal of all specimens. These protocols should be discussed with and approved by the local Coroners or Procurators Fiscal.
- 6.3 Coroners are required to set the timescale for the retention of tissues. In many areas, Coroners authorise disposal once an inquest is closed. At that point, responsibility reverts in practice to the pathologist.
- 6.4 Ethically, relatives have as much right to preserved organs as they do to the body, and it is possible, as a result of recent case law (*R. v. Kelly*, A.E.R. 1998;3:741), that they may be held to own them (*Dobson and another versus North Tyneside Health Authority and another*, A.E.R. 1996;4:474); this is an area of legal uncertainty. A reasonable compromise is to archive tissue blocks and histological sections, and to retain wet tissue for the same period as biopsy and surgically-resected tissues unless relatives have expressed wishes to the contrary, or litigation is pending.
- 6.5 Relatives should be advised that: