

Briefing for the Citizen Participation and Public Petitions Committee on petition PE1911: Review of Human Tissue (Scotland) Act 2006 as it relates to post-mortems, lodged by Ann McNair

Brief overview of issues raised by the petition

The petition urges the Scottish Government to review the Human Tissue (Scotland) Act 2006 and relevant guidance to ensure that all post-mortems:

- can only be carried out with permission of the next of kin
- do not routinely remove brains
- offer tissues and samples to next of kin as a matter of course.

When someone dies in Scotland, they cannot be buried or cremated until a medical certificate with the cause of death has been issued.

If a death is sudden or unexplained, a doctor cannot confirm the cause of death and it is reported to the Crown Office and Procurator Fiscal Service (COPFS).

Within COPFS, the Scottish Fatalities Investigation Unit (SFIU) is responsible for investigating all sudden, suspicious, accidental and unexplained deaths. As well as establishing the cause of death, SFIU also has a role in establishing whether any criminality has occurred.

The permission of the nearest relative is not needed to carry out a post mortem examination if the death has been reported to the

Procurator Fiscal. This is different to a hospital post-mortem which does require the permission of the nearest relative.

The Procurator Fiscal may permit what is called a 'view and grant' post mortem examination. This is a less invasive post mortem which consists of an external examination of the deceased person's body alongside consideration of their medical records.

However, it is ultimately a matter for the pathologist to decide the level of examination which is appropriate. If the cause of death cannot be determined from a view and grant examination, then a more invasive examination may be required. The pathologist's decision must be defensible to relatives, COPFS and relevant professional organisations such as the General Medical Council.

Tissue samples may be taken or organs removed if the pathologist feels it is necessary for the investigation into the death. In such instances, the nearest relatives should be informed and advised of the reason why.

Tissue samples are retained and become part of the deceased's medical records.

If an organ has been retained after a deceased's body has been returned to relatives, the relatives should be informed of this and asked how they want the organ to be treated once tests are complete.

The statutory basis for these measures is contained in the Human Tissue Authorisation (Scotland) Act 2006.

Key Organisations and relevant links

[Crown Office and Procurator Fiscal Service](#)

[Royal College of Pathologists](#)

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