

Legislation Relating to Hospital Post-Mortem Examinations **Consultation response from the Scottish Council of Jewish Communities**

As the representative body of the Jewish community in Scotland, we welcome the recognition that 'people's decisions about what should happen to their own body after death should be respected'.

In Halachah, (Jewish Law), the human body is regarded as sacrosanct and should always be treated with dignity. We do not believe that there are likely to be many circumstances in which there is a 'sufficient public interest reason for carrying out a hospital post-mortem examination without authorisation' and if the Procurator Fiscal does not insist on a post-mortem then we would not, as a rule, want one to take place, (question 1).

There are alternatives to post-mortem, and we would encourage the Scottish Executive to consider the use of non-invasive investigative procedures such as MRI scanning. This technique is already in use in NW England, and we would urge the Scottish Executive to consult with the appropriate authorities with a view to introducing it into Scotland.

When a post-mortem examination does take place, medical and other staff should be made aware that Halachah regards all body parts and tissue in the same light as the body itself. All of these should be treated with respect, and the body should be returned for burial in as complete a condition as possible. In order for the family of the deceased to have confidence in this, we would recommend that they should be able to appoint a representative to attend the post-mortem examination on their behalf. (As is the case in England.)

According to Halachah, burial should take place as early as possible, preferably before sunset on the day that death occurred, and any delay occasioned by a post-mortem examination is likely to be distressing to the family of the deceased. In addition, the shivah, (initial period of mourning), cannot begin until after the burial has taken place, and, as such, any postponement will delay the grieving process, and, inevitably, cause great psychological stress to the bereaved.

The use of any part of the body for research or medical training after a person's death is not permitted by Halachah. We therefore believe it to be essential that separate authorisations should be required for post-mortem examination and for the use of any body parts or tissue for research, medical training, for the medical record or for audit, (question 11). Prepared tissue slides do not present a difficulty, and these may be retained as part of the medical record.

We support the use of the expression 'authorisation' rather than that of 'consent' or 'informed consent' as a means of clarifying and emphasising where control lies in relation to whether or not a post-mortem examination should be carried out.

The issue of who can grant authorisation is important, especially in the case of two close relatives holding different views. As a matter of principle, we would urge that a relative who, on religious or other grounds, does not want a post-mortem to take place should be given priority in case of dispute, (questions 3-5). Similarly, where a person has previously expressed a wish not to be subjected to a post-mortem examination, we would urge that their view should be respected, and that a post-mortem examination should not take place, (questions 7 and 12).

Whether or not authorisation forms are prescribed in Regulations under the new legislation as suggested, they should be standard across the whole of Scotland, (question 10). We would strongly support the implementation of good practice guidance for medical staff to ensure that relatives understand the forms, particularly if they come from outwith Scotland and may be unfamiliar with the Scottish process.

There are many religious requirements surrounding death and burial, and we would recommend that, when authorisation is sought for a post-mortem examination, the medical staff should also be required to ask whether the relatives would like to discuss the matter with a minister of religion such as a Rabbi.

In summary, Halachah mandates that there should be as little interference with a dead body as possible, which, in most cases will mean that a post-mortem is not carried out. It is important that burial should take place as early as possible, preferably within 24 hours, and that throughout, the dead person and their relatives should be treated with dignity and respect.