

**Review Group on Retention of Organs at Post-Mortem: Consultation on report on
Phase 3
Consultation response from the Scottish Council of Jewish Communities**

As the representative body of the Jewish community in Scotland, we welcome the recognition that properly informed authorisation should be obtained in respect of post-mortem examination and any subsequent retention and use of organs or other tissue. We support the use of the expression 'authorisation' rather than that of 'consent' or 'informed consent' in this context, as a means of clarifying and emphasising where control in this matter lies.

In Halachah, (Jewish Law), the human body is regarded as sacrosanct and should always be treated with dignity. It is important that all medical and other staff are made aware of this, in particular that this respect extends not only to the body itself, but to all body parts and tissue which should be returned after post-mortem. 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.)

The use of any part of the body for research or for medical training after a person's death is not permitted by Halachah. We do not, therefore, agree with the Review Group's conclusion that a single authorisation form is sufficient, and believe it to be essential that separate authorisations are required for post-mortem examination as well as for the use of any body parts or tissue for each of research, medical training, medical record and audit. Prepared tissue slides do not present a difficulty, and these may be retained as part of the medical record.

Properly sought separate authorisations should also be essential with regard to the retention and use of tissue following a Fiscal post-mortem, in respect of retention for the medical record, research, medical training and audit.

The question of who should discuss authorisation following a Fiscal post-mortem is important, as is the place where that discussion takes place, as it is of paramount importance that the relatives do not feel themselves to be under any pressure to grant authorisation. 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.

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. This should apply when a hospital post-mortem is being requested, and when other procedures are requested following a Fiscal post-mortem.

We agree with the Review Group's view that a local authority which had been in loco parentis should not be able to authorise a post-mortem examination, but that the views of the parents should be sought and respected.

Halachah mandates keeping interference with a person's body to an absolute minimum. We would not, therefore, support the proposition that research can be carried out without authorisation where the authorising person is suspected of being criminally implicated in the death. We would, naturally, support any investigation deemed necessary by the Fiscal in order to investigate an unnatural death and to bring a criminal to justice. However, we would stress that any research, not required for these purposes, should not be carried out without proper authorisation.

In summary, Halachah requires that a person's body and organs should be treated with dignity and respect. We would stress the importance of safeguarding this by ensuring that proper authorisations are obtained for post-mortem examinations and for all subsequent procedures.