

Anatomy Act 1984: Consultation on Existing Provisions and Licensing Arrangements

Consultation response from the Scottish Council of Jewish Communities

As the representative body of the Jewish community in Scotland we support the appropriate regulation of anatomical research and examination. We are fully aware of the controversies that have led to this review of inspectorate arrangements, and agree that there is a need for clearer guidelines in this area. We are, however, concerned that these proposals are intended to cover the regulation of storage and use of tissue and body parts both taken from a living patient in surgical or other procedures, as well as those taken after death. In our view this may lead to confusion, and we strongly recommend that legislation should be introduced to ensure that the distinction is recognised and that a separate authorisation procedure is put in place for each of these situations.

In Halachah (Jewish Law), the human body is regarded as sacrosanct and should always be treated with dignity and respect.

Tissue samples from living patients

According to Halachah (Jewish Law), the retention and storage of tissue from living patients for diagnostic and/or therapeutic purposes does not pose a major problem. The use of such material in ways that may be of benefit to other patients is also not problematic, and it may – with the appropriate authorisation – be used for the purposes of teaching or research.

Tissue, organs and body parts taken after death

By contrast, Halachah (Jewish Law), does not permit tissue, organs and body parts taken after death to be used for anatomical examination, medical education or research, (para 14). Where a post-mortem examination has taken place, either at the request of the Procurator Fiscal, or with the authorisation of the next of kin, all such material must be returned with the body for burial.

Retention of any part of the body

We would emphasise the importance in Halachah (Jewish Law), of burial of the entire body. The retention of any proportion of the body, (para 16), is, therefore, not permitted. Prepared tissue slides, however, do not present the same difficulty, and these may be retained as part of the medical record.

Authorisation

The issue of authorisation (paras 10 and 19) is an important one, particularly in clarifying and emphasizing where control lies with regard to procedures carried out after death. Consideration should be given as to who can grant authorisation, especially in the case of two close relatives holding different views. As a matter of principle, we would urge that any relative who, on religious or other grounds, does not want any procedure to be carried out should be given priority in case of dispute. Similarly, where a person has previously expressed a wish not to be subjected to anatomical examination or other procedures, we would urge that their view should be respected.

We would strongly support the implementation of good practice guidance for medical staff to ensure that relatives understand the authorisation forms, particularly if they come from outwith Scotland and may be unfamiliar with the Scottish process.

We agree, (para 20) that, 'given the importance now rightly attached to the principle of authorisation' the bodies of people without relatives or next of kin who have died in hospitals or other institutions, and who have not previously given authorisation, should not be used for anatomical examination.

Contacting a minister of religion

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

Licensing

We would agree (para 23), that Section 5 should be amended so that the licensing requirements will apply in Scotland, even when dissection or any other procedure has taken place elsewhere. The public display of a body or of body parts is entirely contradictory to Halachah (Jewish Law), and we welcome the proposal to make this subject to the licensing regime.

According to Halachah (Jewish Law), human tissue and body parts retain their identity and status regardless of what procedures and processing might have been carried out, (para 24), and we would support the proposal that they should remain subject to all of the licensing requirements of the Act.

Inspection

We believe it to be appropriate that Inspectors are given adequate powers to investigate any venue or situation where there is reasonable cause to believe an offence under the Act has been committed, subject to the authorisation of a sheriff or magistrate, (para 26). We do not have a view as to the desirability or otherwise of requiring a uniformed police officer to be present.

Codes of Conduct

We would support the drawing up of Codes of Conduct covering the requesting of authorisation, the retention of tissue, organs and body parts, the conduct of anatomical examinations and the subsequent disposal of the body. These should be both clear and enforceable if they are to be effective.

In summary, Halachah (Jewish Law), 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 always obtained for anatomical examinations and other procedures. In addition, we would urge that legislation should include separate provisions for the use of tissue and body parts taken from living patients, and of that taken after death.