

**GUIDANCE NOTE FOR NEXT OF KIN AND EXECUTORS
RELATING TO CORONER'S POST MORTEM EXAMINATIONS
AND THE RETENTION OF HUMAN TISSUE AND ORGANS
THE CORONERS (AMENDMENT) RULES 2005**

1. In view of the recent publicity and also Public Inquiries relating to the subject, this document is an attempt to give a hopefully straightforward, open and candid explanation as to the law and practice involved. It is subject to review and amendment from time to time after any further advice or guidance from H.M. Government, the Human Tissue Authority, the Royal College of Pathologists and any other appropriate Authority or body.
2. My Officers or I will always give reasons for authorising a Post Mortem examination or not as the case may be. The law says that consent for an examination is not necessary if I decide it is required. However, I will always be prepared to receive representations against having an examination, review and reconsider my decision and ultimately give you a reasonable opportunity to challenge my decision in the High Court.
3. The Coroner decides which pathologist and where an examination is to be carried out. If there is any reason to criticise the Hospital where the pathologist works in respect of any care or treatment given to the deceased which may have lead or contributed to the death, you have the right to ask and indeed the Coroner would usually require an examination to be carried out at a different Hospital unless to do so would cause unnecessary delay to the examination or there is any other good reason.
4. You will be advised of the date, place and time of the examination and the identity of the pathologist. You have the right to be represented at the examination by a Registered Medical Practitioner to act as an observer unless to do so will unreasonably delay the examination. From you point of view you would be responsible for the costs thereof and this can very difficult to organise. It is very rarely ever needed, justified or practically required. My Officers will always inform you of the result of the examination as soon as possible.
5. My Officers or I will explain to you in detail if you want to know precisely what a Post Mortem examination involves. Plymouth Hospitals NHS Trust at Derriford has prepared a detailed explanatory leaflet which is available free of charge.
6. Where no registered Medical Practitioner can give a cause of death certificate, the Coroner can order a Post Mortem under Section 19 of the Coroner's Act 1988 where there is reasonable cause to suspect that a person had died a sudden death of an unknown cause and the Coroner is of the opinion that an examination may prove an Inquest unnecessary. Such a Post Mortem examination is carried out under the authority of a Coroner is exempt from the provisions of the Human Tissue Act 2004.
7. An examination under Section 19 allows for the preservation of "material" under Rule 9 of the Coroners (Amendment) Rules 2005 provides that the Pathologist shall make provision, so far as is possible, for the preservation of material (from the deceased's body) which in his opinion bears upon the cause of death or the identification of the deceased
8. The Royal College of Pathologists recommend that it is good practice for samples of tissue to be retained for examination under a microscope by a process known as "histology". It is also recommended that samples are retained as part of the deceased's medical records.

9. Where the Pathologist preserves material he must notify the Coroner forthwith in writing, identifying the material preserved and explaining why he has formed the opinion that it is necessary to retain it. He may also recommend the period or periods of time he believes the material should be preserved for.
10. Where a Coroner receives such notification, he must notify the Pathologist of the period for which he requires the material to be preserved which cannot be longer than for the purpose of fulfilling his functions under the Coroners Acts 1988. The Coroner may specify different periods for different material
11. As soon as the whereabouts of the deceased's spouse/partner, parents, children or personal representatives/executors are known, the Coroner must notify them that the material is being preserved and the period or periods involved as well as the options for the disposal of material, the Coroner may notify the person who has parental responsibility for any child of the deceased who is under the age of 18 years of age.
12. The options for the disposal of the material are:
 - (a) disposal of material by burial, cremation or other lawful disposal by the Pathologist;
 - (b) return of the material to the relative identified above who requests that the material be returned to him/her;
 - (c) retention of the material with the consent of the relative referred to above for medical research or other purposes
13. Whilst there is no requirement for the notification process to the relatives or an indication of their disposal wishes to be in writing, for the avoidance of any doubt and for the sake of clarity, a disposal authority form has been created, which the relative will be asked to complete.
14. There are separate notification requirements to both the Police and the Crown Prosecution Service in cases where an individual may have been charged with causing the unlawful death of the deceased or of an offence connected with the death.
15. A Coroner can order a Post Mortem under Section 20 of the Coroner's Act 1988 when there is reasonable cause to suspect that a person has died a violent or unnatural death or in any other way which would require an Inquest. In this case, the law allows a "Special Examination" in relation to the body and this means an examination "by way of analysis, test or otherwise of such parts or contents of the body or such other substances or things as thought in the opinion of the Coroner to be submitted for analysis, tests or other examination with a view to ascertaining how the deceased came by his death"
16. Rule 12 and 12A of the Coroners (Amendment) Rules 2005 makes provision for the preservation material for special examination. This may include toxicology, microbiology, virology and several other forms of special test or analysis. The same notification requirements as identified above apply and again we would ask the relative whose whereabouts have been identified to indicate their wishes with regard to the disposal of material once the period specified for retention expires.
17. Once again there are similar notification requirements in relation to the Police/Crown Prosecution Service in cases where a person has been charged with the unlawful killing of the deceased or charged with an offence connected with the death of the deceased. In these cases, material preserved from the examination and/or sent for special examination may become exhibits in a criminal investigation process, there are special and complex rules relating to the retention of the exhibits in criminal cases which are primarily governed by the Criminal Proceedings and Investigations Acts 1996. Ultimately these exhibits may have to be retained until after the conclusion of the trial or any other possible appeal. In such circumstances, you will be advised on a case by case basis.
18. Regrettably the law is not clear but it is understood that a Coroner's functions cease under the Coroners Act 1988 if, after an examination under Section 19, he is satisfied that there is no need to open an Inquest and he completes Form

B procedure entitling the relative to register the death and proceed with the funeral. Where an Inquest is opened, then the jurisdiction would cease upon the completion of the Inquest proceedings at a later date.

19. The Pathologist and/or the person carrying out the special examination now have a legal obligation to keep and maintain a record of all material preserved and disposed of.
20. How long it can take to prepare and full examine whole or partial organs or carry out any other special examination of material preserved can vary significantly from case to case. It can be a matter of days to many weeks and sometimes months. We will advise you on an individual basis.
21. There is no proprietary right of ownership of a body in England and Wales. The immediate next of kin and/or executors simply have the right to possession of the body for the purpose of arranging for respectful disposal by burial or cremation. You will be advised on an individual basis but should you wish to have whole or partial organs re-united with the body, you would have to decide whether or not to delay the funeral arrangements for whatever period of time that was necessary or alternatively proceed in their absence. The Coroner only retains possession or control of the body for only so long as is necessary to complete his inquiries. Consequently when the body is released should you wish to delay the funeral arrangements, then you would have to make either arrangements for the retention of the body by agreement with the Hospital in question (if that is possible) or alternatively with the Funeral Director or such other arrangements as are appropriate bearing in mind Health and Safety considerations. You will also be responsible for the costs thereof.
22. If you wish to proceed with the funeral and the whole or partial organs are returned at a later date, then you would need to contact your funeral directors to see what arrangements can be made for later burial and cremation of this human material. You will also be responsible for the costs thereof.
23. Clearly there may well be cases which start out as a Section 19 Post Mortem but something may well be discovered which may render the death potentially unnatural or violent such as, for example, discovering a potential industrial disease. This would turn the Post Mortem examination from a Section 19 into a Section 20.
24. The Coroner recognises that this is a very difficult area for next of kin and executors to deal with and it is practically impossible to cover each and every eventuality in this sort of guide. Each and every case is dealt with on its merits and my Officers and I am always prepared to discuss and advise.
25. I have prepared a separate Guide to Inquest proceedings which is available from my office on request.
26. I am making this Guide available at Derriford Hospital, The Registrar of Deaths and the Public Library as well as local G.P. Surgeries
27. Finally when I release the body strictly speaking you have the right to have a further examination carried out by another Pathologist. This is rarely necessary or desirable and you would have to take your own legal and practical advice concerning this and again you would be responsible for all the costs thereof.

N.S. MEADOWS – H.M. CORONER – PLYMOUTH AND SOUTH WEST DEVON

1st June 2005