

Inspectorate of Prosecution in Scotland

Thematic Report on Organ Retention

Follow-up

March 2015

CONTENTS	Page(s)
Chief Inspector's Foreword	3
Part 1: Introduction and Background	4
Part 2: Progress against recommendations	5 – 9
Part 3: Audit of retained organs	10 – 11

Chief Inspector's Foreword

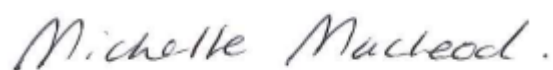
The thematic review of organ retention published by the Inspectorate of Prosecution in Scotland (IPS) in July 2014, found that the public's attitude to death and, in particular, the care of a body after death, has evolved, reflecting cultural diversity as well as an expectation of being involved and consulted on all important decisions regarding their relatives. It also highlighted the impact of medical advances which have significantly reduced the need to retain whole organs for diagnostic purposes.

The impetus for the inspection was the identification by Crown Office and Procurator Fiscal Service (COPFS) of a number of cases where nearest relatives had not been made aware that an organ had been retained for further examination at the conclusion of a post-mortem examination instructed by COPFS.

Recognising that the public must have confidence that the examination of a body after death is conducted in a professional and respectful manner and that nearest relatives must always be informed if an organ has been retained, the Lord Advocate commissioned the IPS to undertake an independent review of COPFS procedures and systems governing organ retention.

The review made 10 recommendations designed to strengthen the systems governing organ retention and remove the risk of nearest relatives not being informed of organ retention following any post-mortem instructed by COPFS.

All the recommendations were accepted by COPFS and we are encouraged by the substantial progress that has been made towards their full implementation.



Michelle Macleod
HM Chief Inspector

Part 1: Introduction and Background

- 1.1 It is the practice of the IPS to conduct follow-up inspections in order to promote improvement and assess the effectiveness of recommendations and their outcomes.
- 1.2 This report details the findings of the IPS follow-up inspection and audit of the thematic review on organ retention, published in July 2014.
- 1.3 The IPS first inspected the systems and processes relating to organ retention in 2014 following the identification of six cases where the nearest relatives had not been made aware that an organ had been retained for further examination at the conclusion of a post-mortem examination instructed by COPFS.
- 1.4 The aim of this follow-up review is:
 - 1 to assess and report on the progress that has been made against each of our recommendations (Part 2); and
 - 2 to record the findings of our audit of organs retained after the release of a deceased's body, in the period since the publication of our report (Part 3).

Methodology

- Interviews with key personnel
- Review of practices, procedures and policies
- Examination of any case files where an organ was retained following the release of the deceased's body between July 2014 and end of January 2015. This audit provides a snapshot of organs held currently and during the previous six months.

Part 2: Progress against recommendations

2.1 The thematic review made 10 recommendations. All of the recommendations were accepted by COPFS.

2.2 We have rated the COPFS response to each recommendation as follows:

Achieved – COPFS has completed what was required

In Progress – COPFS has taken some action to take forward the recommendation and there is ongoing work aimed at achieving the recommendation

Substantial Progress – COPFS has made significant progress in taking forward the recommendation

2.3 We are pleased to report that with the exception of recommendations 2 and 8, all of the recommendations have been implemented.

The table below sets out the recommendations and the actions taken by COPFS.

No.	Recommendations	Progress at March 2015
1.	To ensure transparency COPFS should publish annually the number of organs retained after the deceased's body has been released. This information should be included in their publication scheme.	
Action taken	COPFS published the number of organs retained after the deceased's body has been released in their publication scheme which is available on their website. It is intended to publish this data annually.	Achieved
2.	There should be an agreed written definition of what constitutes an 'organ' between pathology service providers and COPFS.	
Action taken	There has been discussion between COPFS and the pathology service providers on what constitutes an 'organ' but an agreed definition has not been reached. The subject is to be further discussed at a forthcoming meeting.	In Progress

3.	Attendance on the 'Deaths 2' module and the 'Managing Communication with the Bereaved' course should be mandatory for all staff in the Scottish Fatalities Investigation Unit (SFIU) and in other specialist units that deal with fatalities, such as the Health and Safety Division. The training should be completed by legal staff within three months of joining SFIU or other specialist unit.	
Action taken	80% of the SFIU staff and 100% of the Health and Safety Division have attended the Managing Communication with the Bereaved course. The 'Deaths 2' module has been discontinued and is to be replaced by an e-learning module which is currently being finalised. The e-learning module will be mandatory for all staff in the SFIU and in the other specialist units that deal with fatalities.	Substantial progress
4.	In all cases involving suspected criminality, where an organ is retained following the release of the deceased's body, SFIU should assume responsibility for ensuring that the guidance and procedures relating to the retention of the organ are applied. In particular, SFIU should ensure that the nearest relatives are notified timeously of the retention, informed of likely timescales for the completion of the examination of the organ and their options for its disposal. The views of the nearest relatives on the disposal of the organ should also be obtained. <ul style="list-style-type: none"> • A protocol should be drawn up specifying the procedure to be followed including reference to the specific form(s) to be used and the mechanism of recording the information. • Following the release of the deceased's body and the completion of the examination of an organ, all records retained in the SFIU death file should be copied into any associated criminal file. 	
Action taken	Guidance and a flow chart clarifying the process to be followed where an organ is retained have been issued to all staff in COPFS. The guidance specifies that SFIU is responsible for ensuring that the guidance and procedures relating to the retention of organs are applied.	Achieved
5.	There should be a presumption that the death certificate should be issued when the deceased's body is released by the Procurator Fiscal.	
Action taken	Current practice is now to issue the death certificate when the deceased's body is released.	Achieved

6.	<p>COPFS should introduce one national organ retention form to be completed by the pathology service provider and COPFS in any case where an organ is retained after the body is released. The form should contain the following mandatory information:</p> <ul style="list-style-type: none"> • details of the deceased • the type of organ retained • where it is located • how long it is likely to be retained • when examination is complete • date body is released • the instruction on disposal 	
Action taken	A single organ retention form has been introduced.	Achieved
7.	<p>For reconciliation purposes, a copy of the national organ retention database should be sent each month to a nominated post holder such as the mortuary manager or the administrative manager for each pathology department.</p> <ul style="list-style-type: none"> • The requirement to provide a monthly return, including timescales for returns should be incorporated into all pathology service providers' contracts. • There should be an agreed stage when entries are removed from the national organ retention database. For example, when the wishes of the nearest relative have been provided to the pathologist. • SFIU National should create and maintain operating instructions for duties relating to the operation of the Organ Retention Database. 	
Action taken	The audit undertaken has confirmed that SFIU receives monthly returns from the pathology service providers. Entries are removed from the organ retention database when the organ is released to the family for burial/cremation or to the pathology service provider to arrange disposal.	Achieved

8.	<p>The existing contracts between COPFS and the pathology service providers should be amended:</p> <ul style="list-style-type: none"> To provide a presumption that the death certificate should be issued when the body is released. <p>The contracts should be revised to include:</p> <ul style="list-style-type: none"> A requirement to provide immediate and written notification to COPFS if an organ is retained beyond the deceased's body being released. (It is envisaged that this will be done by submitting the organ retention form.) To provide monthly returns within specified timescales to a nominated contact person/post holder in COPFS specifying details of any organs being held. A physical check should be undertaken each month and reconciled with the information provided by COPFS. To dispose of any organs in accordance with a written instruction provided by the Procurator Fiscal. 	
Action taken	The pathology providers' contracts are under consideration. COPFS will seek to incorporate the provisions highlighted in our report within future contracts.	In progress
9.	All communication on the wishes of the nearest relatives should be provided in writing to the pathologist who should acknowledge receipt. The written instruction and the receipt should be retained in the electronic death file.	
Action taken	This has been accepted as best practice and implemented.	Achieved
10.	If nearest relatives fail to engage on the disposal of an organ, COPFS should arrange for a second communication, either in person if there is an established rapport, or by recorded delivery of correspondence seeking their instruction. This second communication should advise that COPFS will arrange for the pathologist to dispose of the organ if the nearest relatives fail to engage or provide an instruction on their wishes within a specified period of time.	

	If, after undertaking all reasonable inquiries, COPFS is unable to trace any nearest relatives, the Procurator Fiscal should instruct the pathologist to dispose of the organ.	
Action taken	SFIU guidance has been revised to reflect this approach.	Achieved

Part 3: Audit of retained organs

- 3.1 The IPS conducted an audit of organs retained by pathology service providers after the release of deceased bodies to nearest relatives. The audit covered the period from July 2014 to end of January 2015. The purpose of the audit was to check whether the procedures implemented by COPFS in response to our recommendations had achieved the desired purpose – to provide a professional, effective and sensitive system for organ retention and to ensure that there were sufficient safeguards to prevent any further instances of nearest relatives not being informed of organ retention following a post-mortem instructed by COPFS.
- 3.2 We contacted all pathology service providers and requested confirmation of how many organs they had retained between July 2014 and the end of January 2015. We also sought confirmation of any organs retained prior to July 2014.
- 3.3 We examined the monthly returns sent by the pathology service providers to the Scottish Fatalities Investigation Unit (SFIU) and the organ retention database record held by SFIU.
- 3.4 We found that since the publication of the thematic report on organ retention in July 2014, there has been one organ retained. The nearest relatives were advised of the retention. We found that the recording and notification procedures had all been followed. The retention was authorised by COPFS following a request from the examining pathologist. The pathology service provider subsequently reported the retention on the monthly retention sheet submitted to SFIU and it was duly noted on the organ retention database held by SFIU. The organ was subsequently returned to the nearest relatives and at that time the relevant entry was removed from the organ retention database in accordance with the agreed procedure to remove entries from the organ retention database once an organ has been uplifted for burial or cremation.
- 3.5 As at January 2015 there are five organs in total being retained, authorised by COPFS. In all cases the nearest relatives are aware of the retention and the purpose of the retention.

Concluding remarks

- 3.6 It is extremely encouraging that the number of cases where an organ has been retained since July 2014 is so low. It reflects one of the most significant findings of the report, namely that there is now consensus among the pathology service providers that organ retention should only occur exceptionally.
- 3.7 We received positive feedback from the pathology service providers confirming that the current practice is, wherever possible, to delay the

release of a deceased's body for a short period to allow the organ to be examined and re-united with the body prior to being released. We hope that this practice continues, resulting in as few organs as possible being retained and thus minimising distress to nearest relatives.

- 3.8 It is also pleasing to note that, in the one case where there was an organ retained, the proper procedures were undertaken and that the procedures achieved the desired outcome of ensuring that both COPFS and pathology service providers were sighted on the retention and, most importantly, that there was the required engagement with the nearest relatives.
- 3.9 As stated in our thematic report on organ retention, the IPS will undertake a further audit of retained organs in July 2015.

If you require this publication in an alternative format and/or language, please contact us to discuss your needs.



© Crown copyright 2015

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78544-265-0 (web only)

Published by The Scottish Government, March 2015

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS46878 (03/15)

W W W . G O V . S C O T