



Best practice recommendations

Code of practice and performance standards for forensic pathology in England, Wales and Northern Ireland

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Foreword

Best practice recommendations (BPRs) published by the Royal College of Pathologists should assist pathologists in providing a high standard of care for the deceased. BPRs are systematically developed statements intended to assist the decisions and approach of practitioners and patients, where relevant, about appropriate actions for specific clinical circumstances. They are based on the best available evidence at the time the document was prepared. It may be necessary or even desirable to depart from the advice in the interests of specific patients and special circumstances. The clinical risk of departing from the BPR should be assessed and documented.

A formal revision cycle for all BPRs takes place every 5 years. The College will ask the authors of the BPR to consider whether the recommendations need to be revised. A review may be required sooner if new developments arise or changes in practice necessitate an update. A full consultation process will be undertaken if major revisions are required. If minor revisions or changes are required, a short note of the proposed changes will be placed on the College website for 2 weeks for members' attention. If members do not object to the changes, a short notice of change will be incorporated into the document and the full revised version will replace the previous version on the College website.

This BPR has been reviewed by the Professional Guidelines team. It was placed on the College website for consultation with the membership from 11 July to 8 August 2024. All comments received from the membership were addressed by the authors to the satisfaction of the Clinical Director of Quality and Safety.

This BPR was developed without external funding to the writing group. The College requires the authors of BPRs to provide a list of potential conflicts of interest. These are monitored by the College's Professional Guidelines team and are available on request. The authors of this document have declared that there are no conflicts of interest.

1 Introduction

The first edition of this code was developed and accepted jointly by the Home Office Policy Advisory Board for Forensic Pathology ('the Policy Advisory Board') and The Royal College of Pathologists ('the College') to allow forensic pathologists to demonstrate high standards of professional performance using valid and acceptable criteria.

The second edition of this code was developed and accepted by the Forensic Science Regulator (the 'Regulator') (on the advice of the Forensic Pathology Specialist Group [FPSG]) and the College (on the advice of the Specialty Advisory Committee on Histopathology and the Forensic Pathology Sub-Committee).

The third edition was developed and accepted by the Pathology Delivery Board (PDB) (on the advice of the Forensic Pathology Specialist Group and subsequently its Standards Committee) and the College (on the advice of the Speciality Advisory Committee for Forensic Pathology).

The document is directed primarily to practitioners working within England, Wales and Northern Ireland. It is hoped, however, that it will also be of value to pathologists who work outside these borders even though they may operate in a different professional climate.

The document is built upon the guidelines issued in 1996 by the Policy Advisory Board and incorporates performance standards for the profession drawn up in cooperation with the Professional Standards Unit of the College. It will be kept under regular review and updated as and when appropriate. The most recent version of this code will be posted on the websites of The Royal College of Pathologists and the Home Office.

The document is divided into sections, each dealing with a specific aspect of the activity of those undertaking forensic pathology. Each section commences with a statement of the standard of practice expected of a pathologist. New recruits to the profession seeking appointment to the Home Office Register will be expected to display competences derived from these standards. The document then goes on to expand, where necessary, upon the way in which these standards should be maintained during delivery of the service.

1.1 Territorial extent

1.1.1 England and Wales

These standards apply to England and Wales.

1.1.2 Northern Ireland

In Northern Ireland, all forensic pathology services are delivered by the State Pathologist's Department, which is sponsored by the Department of Justice. Forensic pathologists work under the authority of the Coroners Service for Northern Ireland and in line with local coroners' legislation.

The Department of Justice has confirmed that the national code of practice applies to services provided by practitioners in the State Pathologist's Department to ensure that forensic pathologists in Northern Ireland work to the same high standards of professional practice as their colleagues in England and Wales. In reading across the national standards, it should be noted that any references to the Crown Prosecution Service (CPS) should be taken as covering the Public Prosecution Service for Northern Ireland.

1.1.3 Scotland

These standards do not apply in Scotland due to the requirements of the criminal justice system (CJS) in that jurisdiction. Separate, but closely related, standards apply in that jurisdiction

1.2 Scope

This latest version of this code of practice is directed not just to those doctors whose profession is 'forensic pathology' but also to other pathologists who may only occasionally undertake forensic pathological investigations. All such practitioners, whatever the extent of their engagement in forensic work, share the same duty to the CJS and the courts and should accordingly understand and abide by the standards set out in this code of practice.

In this document 'forensic pathology' should be interpreted as covering any case where (a) there is, or is likely to be, an investigation by any authority leading to serious criminal charges and (b) information derived from the post mortem examination may be used in the investigation or at trial (whether by the prosecution or defence). The code will apply to work performed within its territorial extent regardless of where the death occurred or where the investigation/prosecution may occur. However, if the death occurred outside the territorial extent, the appropriate authority may give specific instructions that the code should not apply.

The term 'serious criminal charge' refers to the following offences (or their equivalents in the relevant jurisdiction):

- murder
- manslaughter
- infanticide
- child destruction
- unlawful abortion

- serious assault (e.g. grievous bodily harm – with or without intention)
- serious offences related to a road traffic incident involving death (e.g. causing death by dangerous driving, causing death by careless or inconsiderate driving or causing death by driving while uninsured or unlicensed).

The code only applies directly to cases where the likelihood of serious criminal charges being brought was clear at the point at which the post mortem examination was started or when the pathologist performing the examination stops to allow a different pathologist to take over, and it is re-started. It follows that the code does not apply retrospectively to 'routine' cases if they become the subject of a criminal investigation. Such examinations must be completed in accordance with standards established by the Royal College of Pathologists.

While the code does not apply directly (i.e. retrospectively) in cases where a criminal investigation is initiated after a 'routine' post mortem examination, it is stressed that many of the provisions of the code are statements of obligations placed on participants in the CJS. It is therefore good practice to follow the provisions of the code from the point at which it is clear there is a criminal investigation. Before the point at which the death is considered suspicious the relevant standards would have to be complied with.

The code may also apply (subject to relevant legal restriction) to forensic pathology work undertaken outside the territorial extent where those instructing the pathologist specify that it shall.

1.3 Importance of the code of practice and performance standards

Adherence to the code of practice and performance standards is an essential requirement of being registered by the Home Office as competent to practise forensic pathology in England and Wales. It sets out the standards to be maintained by all those who practise forensic pathology whether they are registered or not.

If there are occasions on which a pathologist decides to depart from this code, they must be able to justify their reasons to colleagues, to the CJS and, if necessary, to the PDB and the College.

1.4 Investigation of suspicious deaths

The investigation of suspicious deaths involves 2 simultaneous, but separate, investigations. The first, by the coroner, is to determine who the deceased was, the

medical cause of death and where, when and how they came by their death. In certain cases the coroner may also consider the circumstances of the death. The second, by the police, is to determine whether a criminal offence has occurred and, where it has, to bring the offender to justice.

The pathologist has a role in both of these investigations. In relation to the coroner's investigation, they act on the instructions of the coroner and have specific responsibilities under Coronial Law. In relation to the police investigation their role is to assist and advise the police.

At the time of instruction, the pathologist must be confident that the coroner will allow unrestricted communications between the pathologist and the police. If this is not the case the pathologist should consider whether they should (a) decline the instruction or (b) decline to act for both the police and coroner in the case.

1.5 The duties and responsibilities of the pathologist

Among the duties and responsibilities of the pathologist, the following elements are considered particularly important:

- personal expertise: keeping up to date with the latest methods and thinking by, for instance, actively pursuing relevant continuing professional development (CPD) programmes
- standards: accepting the use of agreed documented procedures and participating in appropriate schemes of peer review and audit
- integrity of evidence: ensuring that the integrity of evidence is not compromised
- compliance: with the obligations placed on expert witnesses and, in particular, their overriding duty to the court (see for example Part 19 of the Criminal Procedure Rules¹ and Part 7 of the Criminal Practice Directions²)
- ensuring the fair presentation of findings: presenting findings and evidence in a balanced and impartial manner, and confining opinions to those based on personal skills and experience, referring to the work of other experts in the field where appropriate
- understanding the CJS: recognising the importance of the disclosure of information to relevant parties

- service provision: addressing and, where possible, meeting customers' needs, including timeliness, providing relevant information and communicating effectively with police officers and others in the investigative process.

1.6 Forensic science standards

Nothing in this document (the *Code of practice and performance standards for forensic pathology in England, Wales and Northern Ireland*) should be interpreted as requiring a pathologist to undertake an activity which, in the opinion of the pathologist, is a forensic science activity subject to the code³ issued by the Forensic Science Regulator under the provisions of the Forensic Science Regulator Act 2021.⁴

2 Professional standards in forensic pathology

2.1 Introduction

The General Medical Council (GMC) is responsible for maintaining the Medical Register in the United Kingdom. It is also responsible for licensing and revalidation of medical practitioners. First and foremost, the pathologist is a doctor, bound by the principles that govern this Register. While the responsibilities of the pathologist may differ somewhat from those of most medical practitioners, both the PDB and the College advocate the principles of good practice summarised in the GMC's publication, *Good medical practice*.⁵ This document forms the basis against which every action taken by a doctor should be judged. The GMC has also published a document on the responsibilities of expert witnesses.⁶

The responsibilities of the pathologist in respect of all aspects of their work, including audit, clinical governance, quality assurance, CPD, revalidation and research, are the same as those of any medically qualified clinical pathologist. However, they also have responsibilities to the CJS, including the need to offer impartial evidence, the integrity of which is not compromised, and the need to present such evidence in a manner that is acceptable to others involved in the CJS. The pathologist's primary duty is to the court, and they must not act in any way that fails to acknowledge that duty.

The PDB and the College share responsibility for setting the standards that underpin high-quality forensic pathology services. Pathologists must ensure that the service they provide is of high quality and conducted in accordance with a formal service level agreement (SLA) or memorandum of understanding (MoU) with the police that demonstrates a commitment to quality, transparency and accountability. It is recognised that not all deaths occur in

circumstances where all the steps in this process are required, but the absence of a step does not constitute an argument for ignoring the principles inherent within the code.

The standards set out in this code must be applied by the pathologist, regardless of the party instructing that individual. All pathologists have a duty to consider and investigate explanations for a death consistent with the innocence of an accused person. Where such an explanation cannot be excluded, it must be brought to the attention of the pathologist's instructing party.

2.2 The Code of practice

This code sets out what is expected of the pathologist in the performance of each step in the process of investigation of a suspicious death, from the initial police contact regarding that death to the presentation in a court of evidence relating to the death. It provides a framework within which clinical audit and performance review can be carried out to assure the quality of performance of individual pathologists, as well as to facilitate the collection of evidence for the revalidation process.

2.3 Mortuary facilities

It is recognised that the pathologist may have to perform autopsies within mortuaries where they have no formal contract of employment with the providers. Pathologists should be satisfied that the mortuaries in which they work have facilities equivalent to the standards set out in National Health Service guidance⁷ and the Health and Safety Executive guidance.⁸ If a pathologist is not satisfied with any aspect of a mortuary, they should make these concerns known to those instructing them, such as the coroner and police force involved.

The mortuary must be licensed by the Human Tissue Authority (HTA) for the performance of post-mortem examinations and the pathologist must be covered by that licence. If the pathologist is not confident that these conditions are met, they must not perform the examination.

The mortuary must have suitable access to radiology services.

If a pathologist is aware that the proposed mortuary for post-mortem examination falls substantially below acceptable standards, they should refuse to make the examination in that mortuary. The pathologist should notify the coroner and the senior investigating officer (SIO) of the decision and the reasons for it.

2.4 Peer review

It must be recognised that the Critical Conclusion Check⁹ is not equivalent to peer review.

It is important that pathologists regularly consult and discuss their cases with colleagues, and all registered pathologists must have arrangements in place so that this can be done. These must include face-to-face contact and electronic means, in which particular types of case (for instance, homicides, infant deaths and deaths in custody) can be peer reviewed prior to issue of the report to the coroner and police. It is good practice for complex cases to be subjected to peer review before a final report is issued.

The use of practice meetings to review complex cases is good practice. The value of review by peers cannot be overstressed and will be referred to throughout this document. The pathologist must not work in isolation from colleagues, either within the discipline of forensic pathology or from other clinical disciplines.

Pathologists must appreciate that the outcome of any discussions are potentially disclosable to the CJS.

2.5 Assistance from other specialists

Practitioners must have in place adequate arrangements whereby they can consult with experts in other medical specialties who may be asked to assist or advise in appropriate cases. They are expected to have full and easy access to departments of all other branches of pathology, including secure specimen storage and to a department of radiology. Practitioners must have access to advice from a forensic science laboratory, which is likely to be through the instructing police force. They must have appropriately secure and adequate provision of modern information technology (IT), including internet access – which must be secure.

2.6 Keeping up to date

Practitioners should have ready access to a comprehensive medical library, including appropriate journals. They have a duty to keep up to date and must be able to advise counsel, courts, and others on the current literature. They must also be able to refer counsel and courts to literature that supports or undermines any opinion expressed.

2.7 Departure from the standards

Where the pathologist becomes aware of an unjustifiable departure from these standards, whether by themselves or by another practitioner, that departure must be brought to the attention of those instructing the pathologist. Where the pathologist becomes aware of repeated unjustified departures from these performance standards, they must bring such concerns to the attention of the PDB.

2.8 Record keeping and retention of material

The maintenance of adequate records is vital and full notes must be kept of briefings and conferences, as well as of all work carried out, tests performed, and results obtained. Pathologists' records constitute 'relevant material' under the Criminal Procedure and Investigations Act 1996.¹⁰ Other material related to the case (e.g. tissue samples, photographs and recordings) may also be 'relevant material'. Such material must be retained for the minimum periods detailed in the code of practice issued under that Act. In homicide cases the normal retention period is 30 years, but it may be longer in certain cases (i.e. those where a whole life tariff has been imposed). The police should advise the pathologist as to the requirement for retention. However, the retention of organs where blocks and slides have been retained will seldom be either appropriate or necessary.

This matter has been addressed in guidance issued by the National Police Chiefs' Council.¹¹

Pathologists must comply with the guidance issued by the CPS on expert witnesses' obligations on disclosure.¹²

Records must be properly indexed and archived in secure storage. There may be occasions (such as at the scene of the discovery of the body or during the post mortem examination) in which the pathologist may dictate notes to a recording device. In such circumstances, the original media and any transcript made from them must be retained.

When recording information gained or generated at any stage of the investigation, it is important to remember that all such material is potentially disclosable to the other parties involved in a legal action.

3 Initial contact with the pathologist

3.1 Standard

The pathologist must be readily accessible to the police in accordance with whatever conditions are set out in an appropriate SLA or MoU.

At the initial contact with the SIO or their deputy, the pathologist will determine:

- a. whether the coroner has been notified of the death and the attendance of the pathologist, and agreed to an invasive examination
- b. the nature of the case and, if known, issues raised by it
- c. whether the case raises any issues of conflict of interest
- d. the requirement for attendance of the pathologist at the scene of discovery of the body
- e. how the pathologist will reach the location of the briefing, should there be reasons why it may not be possible for the pathologist to make their own way there.

Discussion of these issues must be fully documented by the pathologist, with relevant dates and times.

3.2 Code of practice

It is the responsibility of the pathologist to ensure that, when on call, they can be contacted at all times. Adequate arrangements should be in place for practitioners to be available to provide cover during off-duty and leave periods. Maintenance of these arrangements is the responsibility of the forensic pathology practice. Those involved in a rota system should give adequate advance notice of any changes in such arrangements to the police forces concerned.

It is also the responsibility of the forensic pathology practice to ensure that appropriate police forces and coroners are fully acquainted with all relevant contact details. Even when not on duty, it is helpful for contact details to be made known in case of an emergency, such as a mass disaster, where the attendance of as many pathologists as possible may be required.

Call-out arrangements vary around the country. In some areas, the SIO or deputy may call the pathologist. In others, a crime scene manager (CSM), senior crime scene investigator (CSI) or the coroner's officer may fulfil that role. The pathologist should reasonably expect to speak directly with the SIO if they so wish.

The pathologist should attend the scene where attendance is likely to be of benefit to the investigation. This should be determined in consultation between the pathologist, the police and, where relevant, the coroner.

There should be no unreasonable delay in responding to a call, particularly where examination of the body at the scene is required. The police must be made aware of the time required to travel to a particular incident; this will vary from situation to situation depending on the distances involved. What constitutes a reasonable response time should already have been agreed with the force and will probably be encompassed in the SLA or MoU. If there is to be delay beyond this time, arrangements should be in place and adequate resources available for the provision of a suitable deputy.

On occasion, the pathologist can reasonably expect the police to make arrangements for travel, for example to avoid the pathologist having to drive a long distance. Provision of rapid transfer by the police may also be appropriate in some cases.

The pathologist should be alert to the issue of conflict of interest. Should they have any concern that their involvement could raise such an issue they should inform the coroner and police and decline instruction in the case. In considering whether an issue arises the pathologist should ask whether the fair minded and informed observer, having considered the facts, would conclude there was a real possibility of conflict.

3.3 Organ and tissue donation

The donation of organs from a person who is deceased, or who is expected to die imminently, in the context of a police investigation should be facilitated unless it creates an unacceptable risk to the CJS.

4 The briefing

4.1 Standard

The briefing may occur before attendance at the scene or before the post-mortem examination depending on the circumstances of the case. At the briefing, the pathologist will, in liaison with the SIO, CSM and other experts present (e.g. a forensic scientist) and in the light of available information, determine:

- a. where necessary, health and safety issues in relation to the scene of discovery of the body and the personnel involved in the examination of that scene

- b. what evidential issues are raised by the circumstances of death and how these issues may be best approached
- c. what risks of contamination are posed by the circumstances of the case and what measures are required to prevent or reduce such risks
- d. the plan of approach to the examination of the scene and body
- e. the best location for the post-mortem examination and, if possible, an approximate time of arrival at that location
- f. whether the involvement of other forensic specialists (e.g. archaeologists for buried remains or anthropologists for burned/skeletonised remains) may be helpful.

The pathologist must make a detailed, dated and timed record of the briefing.

4.2 Code of practice

The pathologist must ensure that they obtain such details of the circumstances of the death as are available. They should be briefed by either the SIO or another officer delegated for this task by the SIO. This briefing should be carried out at the first available opportunity and should certainly be done before the pathologist carries out a detailed examination of the body or the scene of the incident. The briefing should include any versions of circumstances from witnesses, together with any possible explanations given by the suspect.

Adequate and appropriate briefing is essential if the pathologist is to obtain the maximum information from their examination. The act of carrying out the post-mortem examination will alter the condition of the various parts of the body and, if the pathologist does not learn of possible explanations for their findings until after his examination is completed, there is a risk that the best evidence to confirm or contradict the explanation may not be available.

The pathologist will not assume that any of the explanations that have been proposed for the death are necessarily correct. They will, however, in due course consider any explanations in relation to their own findings in order to come to properly reasoned conclusions.

It is important that the pathologist records any briefing received in sufficient detail, including the date and time, to enable the practitioner themselves (or another individual) to recall and understand any matters considered when conducting the examination. The importance of proper and detailed note taking is stressed throughout this code.

The briefing of the pathologist must be comprehensive. If the coroner is not content with a complete briefing the pathologist should consider whether it is appropriate to (a) decline the instruction or (b) decline to act for both the police and coroner in the case.

5 Scene of discovery of the body

5.1 Standard

The pathologist will, when they attend the scene and after discussion with the SIO and/or CSM:

- a. agree the approach to the scene
- b. enter the scene only by the agreed route of access and using the protective clothing agreed as appropriate to the circumstances of the case
- c. determine whether any special techniques or procedures may be needed during the examination of the scene and body and, if relevant, advise on whether the advice of other forensic specialists (e.g. archaeologists, botanists) may be of use
- d. determine what evidence recovery, by the pathologist, will take place from the body at the scene and, in due course, take (or supervise the taking of) such samples and, if relevant, advise on whether samples from the environment (e.g. soil, water or vegetation) may be of use
- e. ensure the protection, by the pathologist, of any trace evidence that is not to be collected prior to removal of the body from the scene
- f. determine the route of removal of the body from the scene and, if necessary, supervise the removal of the body by the funeral director or other appropriate person
- g. be prepared to give advice on any health and safety issue (where this lies within the pathologist's area of expertise)
- h. record all data that assist in attempts to determine the time of the death
- i. ensure that if it is necessary to manipulate the body during the examination, such manipulation is adequately recorded.

The pathologist must record full details of the scene and the body, and they must document both their own actions and those of others that may be significant to the pathologist's examination.

5.2 Code of practice

5.2.1 Application

This section applies where the pathologist attends the scene.

5.2.2 Scene management

With advances in resuscitation, bodies are often immediately and quite properly removed from the scene of discovery and transferred to a local hospital. When a body is still in situ, however, careful consideration must be given to the need for the pathologist to attend the scene. Where a body has been removed, examination of the scene may still provide useful information, even though the post mortem examination may already have been carried out.

The documents *Practice advice: dealing with sudden and unexpected death*¹³ and *Practice advice: The medical investigation of suspected homicide*¹⁴, instruct that the pathologist should be informed without delay in cases of sudden or suspicious death. On receiving notification, the pathologist will assist the SIO and CSM in developing a plan for management of the scene. This will often but not always involve the attendance at the scene by the pathologist. It is recognised that with advances in forensic scientific examination at scenes there may be competing aspects of scene examination among the scientific disciplines. Nevertheless, the pathologist still has a potential role in the management of most scenes, even where they do not actually attend. When a scene has not been attended, photographs, video recordings and other imaging techniques may be useful in the subsequent briefing of the forensic pathologist.

5.2.3 Action at the scene

Prior to or on arrival at the scene, the pathologist should be briefed by the SIO or a senior deputy, ideally with other appropriate experts present. The pathologist should record the information given to them at this briefing. Reference should be made to the notes in section 4, The briefing.

The scene will be under the control of the CSM, and the pathologist's approach to the body and the examination of other aspects of the scene should be undertaken only after consultation and agreement with this officer and other scenes-of-crime experts who may be present. Such discussions must include routes of access to the scene and the prevention of contamination.

Where there has been no briefing before the scene visit, all the issues described in section 4 will still need to be considered before entering the scene. Attendance at the scene itself may require reconsideration of decisions made at the briefing.

5.2.4 Importance of notes

The pathologist should always record their actions and observations at the scene using comprehensive written or taped notes, including the use of sketch plans where appropriate. These records will be needed during preparation of the report and when giving evidence in court. Again, reference should be made to section 4, The briefing.

The records produced at this stage should be retained in the same manner as materials discussed in section 6, The post-mortem examination.

5.2.5 Photography

The pathologist should advise that adequate photographs of the body are taken. If this has already happened, the pathologist should review these photographs and consideration should be given to the need for any additional images.

5.2.6 Position of the body

The position of the body and that of each of the limbs and of the head should be recorded, together with the relationship of the body to adjacent objects such as furniture and other articles. The state of the clothing should also be noted.

There should be no movement of the body before photographs have been taken, except as necessary for confirmation of life extinct and/or for resuscitation purposes, or where the body must be moved to protect it from the elements (such as incoming tide).

5.2.7 Assessment of the time of death

Except where the body has been exposed to fire or is decomposed or skeletonised, a record of the ambient temperature and, if possible (given the position of the body), the core (rectal) temperature of the body will normally be made. However, it is recognised that the latter is invasive and may interfere with the proper collection of other, potentially more important, evidence at the scene. In such circumstances, consideration should be given to recording the temperature of the external ear canal. There will be cases where this measurement may be of little value, but the pathologist must be able to justify not taking the body temperature if the scene was attended.

The genitalia and anus should be examined, and swabs taken before a thermometer or thermo-couple is introduced – if that is the method employed. If, for some reason, it is not practical to measure the body temperature at the scene, it may be recorded as soon as practicable upon arrival of the body at the mortuary. The degree, location and fixation of rigor mortis and hypostasis should be noted.

Police officers should not allow police surgeons or forensic medical examiners to make such measurements without prior discussion with the pathologist. However, providing the former are appropriately trained and experienced, their involvement may expedite the taking of a body temperature in cases where it has been deemed to be of potential importance, and where its taking will not interfere with other potentially relevant evidence.

Guidance on estimation of time since death has been published.¹⁵

The use of time of death estimates based on heat loss from the body has been the subject of guidance from the Royal College of Pathologists and the Forensic Science Regulator.¹⁶ As a general rule such estimates should be provided with the caveat that they may be used to prioritise investigative routes but should not be used to include/exclude suspects from an investigation.

The pathologist may, if relevant, advise the police on the possible use of entomology to assist in determining the time since death.

5.2.8 Other aspects of scene examination

Detailed examination of the scene of discovery of the body is usually undertaken by forensic scientists and CSIs. However, the pathologist may be required to inspect other aspects of the location and note any findings. This requirement is clearly a matter for discussion with the CSM.

It may be appropriate for the pathologist and a forensic scientist jointly to examine the scene, including features such as the distribution and appearance of any bloodstains. Although the forensic scientist's report will contain detailed comment on such matters, it is the pathologist who should be directly responsible for giving an opinion on the nature and possible cause of wounds that may be the source of the blood. The distribution of blood from any injuries may need to be considered by the pathologist in reconstructing the way in which injuries were likely to have been inflicted.

In addition to advising the SIO and CSM in relation to forensic pathology, the pathologist should also offer advice on the handling and, where appropriate, concealment from public view of the body of the deceased.

5.2.9 Involvement of other specialists

Occasionally, it may be appropriate to seek advice from other forensic specialists, for example entomologists, archaeologists, botanists, soil scientists or anthropologists. Where the pathologist considers such involvement would be of assistance, they should make the SIO and CSM aware of that need. Such advice should be recorded.

The involvement of other experts will have an impact on the investigation, both in terms of time and cost, so it is for the SIO to determine what experts are instructed.

5.2.10 Prevention of contamination at the scene

Only the minimum number of personnel required for efficient and safe examination of the scene should enter it. Where it is likely that DNA and other trace evidence may be of importance, consideration should be given to the value of the pathologist entering the scene weighed against the potential destruction of other critical evidence. Such a decision will usually be taken in consultation with the SIO and CSM as part of the overall forensic strategy. Appropriate protective clothing, as determined by the CSM, should be worn. Changes of gloves may be necessary during the investigation, particularly if exhibits are taken during the examination.

5.2.11 Taking of specimens at the scene

It is essential that no specimens be taken from the body until there has been consultation between the pathologist and the CSM. CSIs and forensic scientists, if present, may also need to be consulted. Where the taking of certain samples is not considered necessary, these should be omitted only after obtaining the agreement of the above parties. Where samples are to be taken, appropriate measures should be taken to prevent contamination.

Where samples are to be taken for the purposes of the coroner the pathologist must be confident, given the early stage in the investigation, that they have the authority of the coroner. Samples may be taken even if the coroner's authority is not clear, if this is necessary to preserve evidence. However, all samples should be taken under section 19 of the Police and Criminal Evidence Act 1984¹⁷ where a person holding the powers of a constable is lawfully on premises or, if the body is not in premises, under Common Law powers.

It is often good practice to take tapings from exposed surfaces of the body and possibly from the clothing. This may be done by, or under the supervision of, the pathologist or by appropriately trained and experienced CSIs. In cases where tapings have not been taken at the scene, consideration should be given to taking them in the mortuary when the body is first unwrapped.

It may be advisable to remove some or all of the clothing at the scene. In cases where there has been significant bleeding, the removal of clothing at the scene is recommended to avoid further leakage of blood during transport which could obscure evidence.

All specimens should be taken using equipment supplied or approved by the CSI. If clothing is to be cut, only instruments supplied by them should be used.

When deciding what material will be relevant in any particular case, the taking of samples from the following areas should be considered:

- tapings from exposed body surfaces and uppermost surfaces of clothing (where it is considered likely that trace evidence will be shed on manipulation). If clothing is not to be cut away, the manipulation of the body required to remove clothing may dislodge or contaminate trace evidence; clothing should not be removed until specimens have been taken from head and hands
- recovery of extraneous materials and combings of head hair, beard and moustache hair and pubic hair
- plucked hairs from the above sites, each sample being representative of the range of hairs present at those sites
- where objective evidence of chronic drug use is relevant to the case, a pencil thickness of head hair, cut as close to the scalp as possible and the cut ends wrapped in foil¹⁸
- a swab or swabs from the mouth and teeth
- recovery of extraneous material and tapings from the hands where any foreign material is recognised; tapings must be taken before fingernail scrapings or cuttings
- swabs or scrapings from underneath the fingernails of each hand, or fingernail cuttings, using appropriate equipment provided or approved by the CSI or the forensic scientist. Sampling from hair and hands where the death may be related to firearms or explosives must be discussed with the CSM and be made using only a 'Gunshot

residues and explosives sampling kit' approved by the relevant forensic science laboratory and preferably with advice from a forensic scientist

- swabs from any moist areas on the body surface where the possibility exists that such moist stains have arisen from a person other than the deceased
- where there is a possibility of sex-related crime, swabs will be taken from those areas where semen or saliva may be most likely considered to be present (i.e. face, neck, nipples, hands)
- a swab or swabs from the perianal skin, taken before a swab or swabs from the anus
- a swab or swabs from vulva and low vagina, taking care to avoid contamination of the latter from the initial swabbing of the former; these swabs must be taken after swabbing of the perianal skin and anus (to avoid leakage during the course of the vulval swabbing)
- a swab or swabs of injuries that may have resulted from contact with another individual where the skin from that individual may have been shed (e.g. swabbing of the skin of the neck in postulated manual strangulation).

In each instance, appropriate control swabs must be taken. Multiple swabs from a single area must be numbered in the order of their taking.

Where injuries are impressed into the skin a 3-dimensional record (e.g. by casting) may be appropriate. The police will determine if any special recording methods should be used.

The pathologist may advise on other potentially relevant samples (i.e. not from the body, e.g. soil, water, vegetation or insects).

The approach to taking samples must take account of the circumstances of the case and what is practical and safe.

5.2.12 Removal of the body

When a scene has been assessed, the pathologist will often supervise the packaging and subsequent removal of the body. Consideration should be given to the need for making the packaging secure and tamper evident. It is good practice for the body bag to be sealed with ties bearing unique identifiers. The identifiers should be recorded and photographed.

If trace evidence has not been collected at the scene, the hands may be placed in bags before the body is removed. If the head is to be similarly placed in a bag, it must be remembered that any open head wound is likely to shed blood into the bag during transit.

This may obscure details such as the direction of dried bloodstains and render difficult the collection of trace evidence. It is therefore often advisable to examine the head and arrange for detailed photographs and collection of potential evidential material at the scene.

On arrival at the post mortem examination room, the body should remain undisturbed in its wrapping or body bag, until the pathologist arrives to undertake the examination, unless any different action has previously been agreed with the SIO or designate for some specific purpose.

6 The post mortem examination

6.1 Standard

At the mortuary, the pathologist will:

- a. confirm that the mortuary is licensed by the HTA for the performance of post mortem examinations and that they are covered by that licence;
- b. ensure that the body is that for which the pathologist has authorisation from the coroner to conduct a post mortem examination
- c. if trace evidence was not taken at the scene, ensure that as far as practicable there is no opportunity for contamination of the body from any fixture, fitting or person at the mortuary
- d. take, or supervise the taking of, any necessary trace evidence not taken at the scene
- e. ensure that any manipulation of clothing once removed from the body takes place over the body wrapping so that any evidence shed from the clothing will not be lost
- f. make an examination of the body in a manner that addresses all evidential issues that may be raised by the case and, where practicable (without compromising potential evidence recovery), ensures that the dignity of the deceased and ethical issues relating to the deceased and the family are accommodated
- g. be able to justify all examinations in the context of the case and remembering that in a criminal investigation there may be interested parties other than the family (the needs of 1 party must not be accommodated to the detriment of other parties)
- h. note any significant features of the body that reveal anything out of the ordinary, whether or not they appear immediately relevant to the cause of death

- i. note where parts of the body have been examined and no abnormality found, because the negative finding may be equally significant
- j. where there are findings of apparent significance that can be demonstrated visually, ensure that sufficient detailed photographs are taken so that others can see them for themselves at a later date
- k. retain any material relevant to the cause of death and/or that may assist in the resolution of issues (whether for inclusion or exclusion of possibilities) that foreseeably may arise during the investigation of the death, including those that can be anticipated at trial
- l. ensure that all exhibit labels necessary to ensure the chain of custody of samples removed for evidential purposes are signed at the time required by the CSIs.

The pathologist must ensure that there is a full record of the details of the post mortem examination that documents both their own actions and those of others that may be significant to the pathologist's examination.

6.2 Code of practice

The PDB and the College recommend that all pathologists follow relevant guidance on post mortem examination practice published by The Royal College of Pathologists.

6.2.1 Approach to the post mortem examination

Having equipped themselves as far as they can with information about the likely issues in question, the pathologist will be ready to embark upon the post mortem examination. They will need to note any significant features of the body where their findings reveal something out of the ordinary, whether or not this appears immediately relevant to the cause of the death. They will also need to record the fact that they have examined parts of the body (e.g. mouth, genitalia, anus) and found no abnormality, because a negative finding may turn out to be as significant as one that is positive.

Techniques employed during the dissection, or any subsequent investigation, should as far as practicable be accepted and well established procedures. The pathologist must be able to defend the use of any novel or unorthodox technique both to their colleagues and to the wider CJS.

Wherever possible, and particularly where it is relevant to the investigation, the pathologist should have access to the medical history of the deceased before the post mortem

examination is commenced. Where such records are not forthcoming, the pathologist will need to decide whether the examination ought to be postponed until the information becomes available.

6.2.2 General considerations

The mortuary must be licensed by the HTA for the performance of post-mortem examinations and the pathologist must be covered by that licence. If the pathologist is not confident that these conditions are met, they must not perform the examination.

The pathologist must, if requested, be able to prove their identity and authority for performing the examination to the designated individual for the mortuary. The pathologist must act in accordance with the procedures established by the designated individual.

Autopsies should only be conducted in mortuary facilities that are fit for purpose. If in the reasonable opinion of the pathologist an establishment appears not to be fit for purpose – to the extent that it would be detrimental to their conduct of the post mortem examination, for reasons of health and safety or for any other reason, they should refuse to commence the examination and communicate their concerns to the instructing coroner and the SIO.

The pathologist should brief the anatomical pathology technologist (APT) on the nature of the case and their tasks. An experienced APT can assist with the examination at the discretion of the pathologist (e.g. removal of the skull) but must be under the direct control and supervision of the pathologist at all times.

Continuity of identity from the scene of discovery should be carried out at the start of the examination and the formal identity of the deceased should be confirmed to the pathologist if it is known. If unknown, it should be identified by reference to where and when the body was found. The means of identifying the body to the pathologist should be recorded and recorded in the report.

The post mortem examination must be carried out in a manner consistent with medical ethics and respecting the dignity of the deceased. Proper consideration must be given to the needs and wishes of relatives and others who may wish to view the body. If practicable, consideration should be given to close relatives being allowed an opportunity to see the body before the examination, but only after relevant trace evidence has been recovered. Before such viewings are undertaken, there should be discussion between the pathologist, the SIO and the police family liaison officer (FLO) so that relatives are fully informed, for example, of any features that might cause distress. If the viewing is to take

place after the examination, the pathologist should consider whether any dissection, which may render viewing of the body by relatives distressing, may be postponed until a time when all such viewings have been made.

In suspected homicides, the SIO or an appropriately designated officer will normally be present throughout the post mortem examination so that they can appreciate the examination findings and answer any questions that may arise about the circumstances of the case.

Appropriate CSM and CSIs should also be present. It is essential that all personnel present in the post mortem examination room wear full personal protective equipment (PPE) to protect them from infective hazards and to avoid any contamination of the body or clothing. The number of individuals in the examination room must be kept to a minimum.

A person able to use police powers (police officers or staff) must be present if powers under section 19 of the Police and Criminal Evidence Act 1984¹⁷ are to be used to seize and retain evidence, including human tissue.

6.2.3 Involvement of other specialists

The pathologist must consider whether they have the appropriate expertise to perform a post-mortem examination given the circumstances of the case and request the attendance of other appropriate experts if necessary. The pathologist must cooperate in an appropriate manner with such experts.

If investigation of the case requires the assistance of other pathology specialists, for example a paediatric, cardiac or neuropathologist, it is the responsibility of the pathologist to make appropriate recommendations to the SIO or CSM/senior CSI. If that expert cannot attend, the pathologist must seek advice from the expert to determine what material might be required for later examination and interpretation and ensure it is recorded and/or preserved in an appropriate manner.

The pathologist may also wish to seek advice from other forensic science experts.

The use of other experts is likely to have an impact on the investigation, both in terms of both time and cost, so it is for the SIO to determine what experts are instructed.

6.2.4 Photography

It is the duty of the pathologist to advise the SIO that adequate photographs are taken of the whole body and of all wounds or other abnormal features before commencement of

dissection. Photography in the mortuary should only be carried out under the supervision of the pathologist unless the photographs are required for another specialist (e.g. odontologist) involved in the case. Pathologists should not normally take their own photographs. Where, exceptionally, the pathologist does take photographs (whether at the scene and in the mortuary) the report must indicate that such photographs exist. Their existence will be revealed to the CPS for consideration of disclosure to the defence.

Where there are findings of apparent significance that can be demonstrated visually, these should be photographed so that others will be in a position to see for themselves at a later date. It will be particularly important to visually record the condition of the body where the examination will interfere with the findings and thus prevent anyone else from assessing the significance of the finding.

Where a photograph is taken to record detail (e.g. an injury) it should incorporate a scale.

The pathologist should arrange with the SIO and CSM that any additional photographs of the body taken by the police are provided to them.

Where photographic images are shared, steps should be taken to ensure that this is undertaken in a manner that ensures security and accountability of all images.

6.2.5 Radiology and post mortem imaging

Modern post mortem imaging methods (e.g. X-ray, CT, MRI) can provide valuable information in most scenarios. Their use, as part of the post mortem examination process, is therefore strongly encouraged.

Some form of such imaging should be part of the examination in all cases of suspected non-accidental injury in children and in all deaths involving firearms or explosives. It can also be of considerable assistance in the examination of badly burnt or decomposed bodies and may be appropriate in other instances. The pathologist will be responsible for advising on the need for such examination and for seeking the assistance of a radiographer and consultant radiologist where necessary.

6.2.6 Post mortem examination notes

Comprehensive contemporaneous notes are essential and must be recorded in respect of every procedure undertaken. Such notes may be written or dictated. Where appropriate, notes should be accompanied by diagrams.

Notes must include the time, date and place of the post mortem examination and the names and roles of all those present.

Where the pathologist does not produce the records, they must ensure arrangements are in place with the mortuary or the police to produce such records on their behalf. The pathologist should not assume that police staff in the mortuary for other purposes will be available to create such records without prior agreement.

The notes or tapes (or, where digital recorders are employed, the original media file) must be retained as described above (see section 4, The briefing, and section 5.2.4, Importance of notes). Aside from their importance as a contemporaneous record of events to the pathologist involved, such notes may be required for peer review, audit or disclosure during criminal proceedings.

6.2.7 Removal of clothing

Any clothing on the body must be removed carefully, preferably without cutting, and placed in appropriate evidence bags or packaging with due care to avoid contamination. This should be done after trace evidence has been removed from the rest of the body, particularly the hands (unless they are bagged). Although detailed examination of the clothing is a matter for the forensic scientist, the pathologist should check it for damage such as cuts, which may influence the conclusions to be drawn from the examination of the body. Any manipulation of the clothing should take place over the wrapping material so that any shed evidence is not lost. In some instances, tapings may be taken from the surface of the clothing before removal; this is usually done by a forensic scientist or CSI. Serial photographs should be taken as each garment is removed.

Adequate notes must be made of the procedure and the findings.

6.2.8 Collection of trace evidence from the body

If all samples have not been taken at the scene, the pathologist must as far as possible ensure that there is no opportunity for contamination of the body from any fixture, fitting or person at the mortuary. If the body is within a body bag, consideration should be given to taking any samples before the body is removed from the bag. Samples should be taken after discussion with the SIO and appropriate experts. Only where these discussions indicate that samples are not considered necessary should they be omitted; such discussions should be documented.

Where samples may be of value, reference should be made to the list of samples noted in paragraph 5.2.11, Taking of specimens at the scene.

In some cases, the post mortem examination is carried out after the person has spent time in hospital and subsequently died. In such cases the subsequent collection of some or all specimens from the deceased may be of little or no value. The decision on what, if any, samples to take should be considered on a case-by-case basis in consultation with the SIO and CSM/CSI.

6.2.9 Post mortem examination procedures

6.2.9.1 Participation

The post mortem examination, and the reporting of its results to the CJS, is the responsibility of the forensic pathologist. It follows that all aspects of the examination must (subject to the points below) be undertaken by the pathologist or people acting in the presence of and under the immediate direction of the pathologist.

Direct involvement of the pathologist is required from the initial examination of the body at the mortuary.

Specialist medical (e.g. neuropathology or odontology) or scientific (e.g. toxicology or anthropology) investigations may be undertaken by suitably qualified people and without the direct involvement or supervision of the forensic pathologist. Anatomical pathology technologists are not considered to be specialist medical or scientific practitioners in this context.

6.2.9.2 Children

It is usual practice for autopsies in violent or suspicious death cases involving children (those aged under 2) to be performed by a forensic pathologist and a paediatric pathologist working together. In cases where the death is clearly the result of violent trauma the forensic pathologist may determine that the involvement of a paediatric pathologist is unnecessary. The forensic pathologist may consider it appropriate to have a paediatric pathologist involved in any case where the deceased is under 18 years of age.

This approach is necessary because of the nature of the range of issues (such as the exclusion of natural disease processes) that arise in the investigation of the death of a child and the specific expertise required to address this range of issues.

The guidance above may have to be adapted to account for any requirement for urgent action.

6.2.9.3 Sudden unexplained death in infancy and childhood

The Royal College of Pathologists has provided relevant guidelines on autopsy practice for sudden unexplained death in infancy and childhood.¹⁹

6.2.9.4 Measurements

Metric measurements should be used, however imperial measurements are still felt to be more readily understood by the court, especially in the case of larger measurements such as body height and body weight. The pathologist should consider providing imperial equivalents to metric measurements or incorporating a conversion factor in their report.

6.2.9.5 External examination

The description of the body should include, if ascertainable, age, biological sex, build, height, race or ancestry, weight, nutritional state, skin colour and special characteristics such as scars, tattoos, etc. Notes should also include the length, colour and distribution of hair and beard, and, if relevant to the circumstances of the case, length of, and any damage to, the fingernails.

The presence (or absence) and distribution of hypostasis should be recorded.

The presence (or absence), extent and distribution of petechiae should be recorded.

Any marks on the neck or in the mouth should be recorded.

The genitals and anus should be examined, and any marks or injuries recorded.

If not already dealt with at the scene, rigor mortis should be systematically tested for in the neck and the extremities if potentially of relevance to the case.

Signs of medical treatment should be recorded. Medical devices should not be removed from the body before the post mortem examination, and the pathologist should take steps to ensure that staff likely to handle such bodies are aware of this.

The recording of negative findings is as important as recording positive findings.

If the remains are skeletonised, the advice of a forensic anthropologist may be of assistance.

6.2.9.6 Examination of injuries

All injuries must be described by shape, exact measurements, direction, edges and angles. The location relative to anatomical landmarks and, if appropriate, the height above

the heel should be measured. In cases of multiple repetitive injury, it may be appropriate to describe groups of injury.

In the case of closed injuries, such as bruising, the colour should be noted. Local skin incision may be appropriate in the assessment of bruising.

Where an injury is impressed into the skin, a 3-dimensional record (e.g. by casting) may be appropriate.

The pathologist should, where possible, attempt to broadly age (differentiate between fresh and healing) injuries. In cases where the age of the injuries is important, further histological examination should be considered. The limitations of such age assessments should be made clear in the pathologist's report.

Skin reflection may be necessary in some parts of the body, but unnecessarily mutilating dissections and destructive examinations should be avoided. Any dissection that does take place must be of such type that the body can adequately be reconstructed. All dissection carried out during the post mortem examination must be justified in the context of the case. There should be a low threshold for the examination of subcutaneous tissues of the trunk and upper limbs for evidence of bruising, particularly in dark-skinned individuals where bruising may not be apparent at the skin surface.

It is often important to dissect the face from the underlying facial skeleton. If the whole dissection is performed skilfully and carefully, the face can be replaced with little significant distortion.

6.2.9.7 Internal examination

Pathologists should adhere to the relevant guidance on post mortem examination practice issued by The Royal College of Pathologists. The standard of internal post mortem dissection must be comprehensive. In addition to the forensic aspects of the examination, careful attention must be paid to any features that may be relevant to natural disease or medical intervention.

Incisions should be appropriate in relation to the nature of, and issues raised by, the case. Adequate measures must be taken to drain the neck before it is dissected.

The state of body cavities should be described and the amount of fluid in each cavity should be estimated and recorded. The quantity of blood (free and clotted) in the cavity should be measured. The measurement should be to a degree of accuracy appropriate to the issues in the case.

All organs must be dissected accurately and adequately described with weights. Other measurements should be recorded as appropriate.

Attention should be paid to the contents of the stomach and bladder. Where samples are taken (and toxicological analysis is likely) the quantity of recovered material should be estimated and recorded. In the case of stomach contents, where retention is required for toxicological analysis normally all of the contents should be taken; if this is not possible, an estimate should be made of the proportion of the material present that was recovered. It may be useful to discuss the sampling with the forensic toxicologist who will be responsible for the analysis. It may also be useful to discuss the potential value of examination of the stomach contents with the SIO. A description of undigested food may be of use to the police investigation and may direct the police to possible locations of the deceased prior to death.

Examination of the generative organs must not be omitted. The testes should be exposed and incised.

6.2.9.8 Collection of evidence

The pathologist should, as a standard part of the examination, retain material that is relevant to the cause of death or the identity of the deceased.

The pathologist should also advise the police as to any material that they believe should be retained as evidence (to assist in establishing, or disproving, a particular fact or proposition). While it is for the police to determine what evidence is seized, it is expected that they will act on the advice of the pathologist. The pathologist should assist the police in the collection of such evidence and may retain it on behalf of the police for further examination.

6.2.9.9 Collection of internal specimens at post mortem examination

The pathologist must ensure that all necessary samples are taken for toxicology and properly preserved. They should, in cases where the sampling is not routine, discuss with an experienced toxicologist what specimens may be required.

The samples to be taken for toxicology will depend on what is available and what the forensic science laboratory desires. Consideration may be given to the collection of blood, urine and vitreous humour – preserved and unpreserved. If fluid samples are unavailable or sparse, e.g. due to decomposition or severe trauma, samples of liver (right lobe), skeletal muscle or both may be collected. Collection of 2 types of specimen is useful.

Blood for toxicology should be taken from an isolated peripheral vein. Other sites may be sampled as relevant. The site(s) of collection of blood samples must be noted.

Control samples, for example for DNA examination, should be collected and retained according to the instructions given by the responsible forensic science laboratory.

In addition, the pathologist must consider whether other types of laboratory examination will be necessary and whether samples for these purposes should be taken at post mortem examination. In some circumstances, the pathologist will decide that tissues or organs need to be retained for later examination. In such instances, they must make appropriate arrangements, including any necessary discussion with the coroner responsible for the body.

6.2.9.10 Continuity

Where samples are retained, the pathologist must ensure that the security, integrity and evidential continuity of the samples and all results obtained from the samples can be demonstrated. Regard should be had to the document Guidelines for Handling Medicolegal Specimens and Preserving the Chain of Evidence, issued by The Royal College of Pathologists and the Institute of Biomedical Science.²⁰

6.2.9.11 Post mortem histology

A histological examination should be made, by the pathologist themselves, of the major organs (assuming that they are not heavily decomposed) in all cases. Histology is of value in confirming, evaluating and sometimes revising the course of natural disease processes that may have contributed to the cause of the death. Other samples should be taken for histological examination depending on the circumstances of the case, for example for the purposes of ageing injuries.

As noted at the start of this document it is acceptable for a forensic pathologist, in exceptional circumstances, to deviate from the requirements of the code. The reasons behind any decision not to undertake a histological examination must be adequately recorded so that the pathologist can defend this action if required. In making such a decision the pathologist should have in mind the potential loss of opportunity for defence examination and the potential for challenge on this basis.

6.2.9.12 Health and safety issues

The pathologist has a role in advising on health and safety in the post-mortem room. However, it is recognised that other professionals present will be expected to follow their

own guidelines and the pathologist cannot be held responsible for any breaches in adherence to those guidelines by others present. The pathologist is expected to set an example in matters of health and safety.

The designated individual under the provisions of the Human Tissue Act 2004²¹ is responsible for ensuring appropriate health and safety policies are in place. It is the responsibility of the APT, or another representative of the designated individual, to ensure these general policies are complied with. The pathologist must comply with these policies.

The health and safety issues with regard to a specific case must be assessed by the pathologist in collaboration with the SIO (or their representative) and CSM/CSI before the examination begins.

All those involved will be expected to take very serious account of the forensic pathologist's directions, particularly when dealing with a recognised or potential high-risk case.

A qualified and experienced APT should be in attendance.

The Health and Safety Executive's (HSE) view is that any post mortem examination where 'infective disease cannot safely be excluded' should be treated as a high-risk case, and this will include a high proportion of suspected homicides. This position is reflected in current guidance (see section 164).⁸ The pathologist should take careful account of local standard operating procedures.

6.2.9.13 Retention of material after post mortem examination

Unnecessary or ill-considered retention of material removed at post mortem examination has caused considerable distress to bereaved relatives, and the pathologist must consider very carefully whether such material needs to be retained and for what purpose.²²

The Criminal Procedure and Investigations Act 1996¹⁰ requires that any material obtained in the course of a criminal investigation and that may be relevant to the investigation should be retained until the end of criminal proceedings and following completion of any initial appeals procedure. There is then a requirement for certain material (e.g. records, blocks and slides) to be retained for as long as a challenge to the conviction is likely. In general terms, this may be interpreted as the release from detention of a person convicted of homicide. As it is unlikely that the pathologist will know when a person has been released from prison, a standard period of 30 years is normally used. The police may advise the pathologist that longer retention is required. If, however, suitable samples have

been taken from organs for the purpose of histological examination, it will usually be appropriate to return organs to the body.

Certain organs can only be fully examined if they are retained after the post mortem examination is otherwise completed. For example, the brain will usually be fixed in cases where there may be some brain abnormality, such as following head injury. It is the duty of a police representative (for example, a family liaison officer) or the coroner or their officer to explain the reason for this to the appropriate relative.

The pathologist must document what material has been retained and inform the coroner and police through locally determined procedures. This should also form part of the pathologist's report. The record of retained material should, unless the police direct otherwise, be provided to the designated individual for the mortuary or their nominee.

Any materials retained on behalf of police must be kept in secure storage and under suitable conditions. Its whereabouts must be properly recorded and indexed in order to ensure easy access.

All material from the post mortem examination that is retained on behalf of the police for the purposes of a criminal investigation must bear an initial police exhibit number/label. Its security, integrity and continuity must be maintained up to and including the point of proper disposal. No such material should be disposed of without prior consultation with the police, and if relevant, the coroner.

The retention of tissue on behalf of the coroner must comply with the provisions of the Human Tissue Act 2004.²¹ The retention of tissue by, or on behalf of, the police is not generally subject to the provisions of the Act (by virtue of section 39 of the Act). Guidance has been issued on this matter by the Forensic Science Regulator,²³ and police guidance has been issued by the Home Office.²⁴

6.2.9.14 Less-invasive examinations

The use of post mortem examinations involving primarily imaging and do not include a significant invasive examination (which may be referred to as minimally invasive methods), by themselves, is normally insufficient in cases where there may be a criminal prosecution. There may be cases where the pathologist believes that exceptional circumstances (normally where examination of the body creates a significant risk to those involved) justify recommending such an examination. This type of examination should not be undertaken unless the pathologist makes a recommendation to that effect and the key stakeholders

(the police and coroner) agree to this approach. The potential position of the defence should also be considered.

It should be recognised that issues of medico-legal importance (including to the Crown and the defence) are often not apparent until some time after the death.

The defence should take advice from a forensic pathologist concerning the use of less invasive examinations. The defence is entitled to have the best forensic pathological evidence on behalf of its client, and a request by it for an invasive forensic post mortem examination must be considered.

The decision to limit the examination to a minimally invasive examination must be recorded and justified in the examination records. The pathologists involved in the decision (both those instructed by the prosecution and the defence) must be able to justify the decision taken.

Where reliance is placed on imaging, the results, findings established by the results, and any interpretation of what those results mean in relation to injuries, etc., must be provided by a suitably qualified expert (e.g. a consultant radiologist). This is necessary because the relevant findings are opinions based on radiology evidence. This is not the case where imaging is used as an adjunct to an invasive examination.

Reports issued by the pathologist must address the reasons why a minimally invasive examination was undertaken and the impact that decision may have on views set out in the report.

7 The pathologist's post mortem examination report

7.1 Standard

The pathologist will:

- a. produce a formal report that will record:
 - i. the information the pathologist received in advance of the post mortem examination
 - ii. that the data justifying decisions and actions taken at the examination of the scene and the body has been retained
 - iii. all investigations made either personally or by submission to a laboratory for report

- iv. conclusions and an explanation for those conclusions; where unusual features are found but are concluded not to be relevant, the pathologist must explain why the finding has been discounted
 - v. the reasoning underlying why, where findings are susceptible of alternative explanations, one explanation is favoured
 - vi. the reasoning that supports conclusions, detailing all material drawn upon to support that reasoning, including reference to pertinent and current literature
 - vii. all samples that have been retained by the pathologist, whether or not these have been assigned police exhibit references
 - viii. any other information required under the CPS guidance on expert witnesses' obligations on disclosure (Part 15 Disclosure of the Criminal Procedure Rules¹).
- b. ensure the report meets the requirements set out in Part 19 of the Criminal Procedure Rules² and the relevant sections of the Criminal Practice Directions³ (see guidance issued by the Forensic Science Regulator^{4, 5})
 - c. have in place, for all cases involving violent or suspicious death, a 'critical conclusions check procedure', whereby another suitably qualified forensic pathologist (on the Home Office Register, where the initial pathologist is registered) scrutinises the report to ensure that:
 - i. the report is internally consistent
 - ii. the conclusions drawn are justifiable from the information set out in the report
 - iii. the report is capable of being understood without reference to other material.
 - d. ensure the report states a critical conclusions check has been performed but not make any suggestion of support from the person performing the check
 - e. take responsibility for identifying complex cases for peer review, where another suitably qualified forensic pathologist (on the Home Office Register where the initial pathologist is registered) scrutinises the report and materials. This may be necessary to ensure that the conclusions conform to the requirements given above; they must have in place such a peer review procedure, which may be conducted by an individual or during a practice meeting
 - f. ensure that where the critical conclusions check, or any other peer review procedure, reveals significant disagreement that this is communicated to the coroner and the SIO

- g. produce the report as quickly as is possible, after necessary analytical reports are complete, considering the complexity of the case and within an agreed timescale, depending on the investigations and expertise required
- h. make the SIO and/or CPS aware of a provisional timetable for the production of the report in complex cases, to allow them to meet the requirements of section 51 of the Crime and Disorder Act 1998¹
- i. consider additional information revealed by investigations after the provision of a report and, where necessary, produce a supplementary report incorporating that information and drawing further conclusions
- j. ensure that the detail within any report reflects standards and minimum datasets contained in relevant and current guidance
- k. comply with staged reporting standards if these are issued.

7.2 Code of practice

7.2.1 General comments

The standard sets out what must be included to produce scientifically valid and impartial reports that are appropriate for use within the CJS. It is not the purpose of the code to prescribe the format and style of reports prepared by pathologists. Whilst there are legal requirements that must be complied with,^{25,26} it is for the pathologist to decide on the nature of the report.

In general terms, the report or statement must be clearly laid out, section by section, in an easily read format. The following sequence is recommended:

- the qualification and experience of the pathologist
- report preamble
- history (see section 7.2.4)
- scene examination
- external examination
- internal examination
- supplementary findings and additional investigations (histology, etc.)
- commentary and conclusions

- cause of death
- note on retention of samples, and list of samples retained
- a declaration of truth (where the report is to be used within the CJS).

The report of an expert witness should be easily read and unambiguous. The report, and the commentary or conclusions section, must be intelligible and easily understood by non-medical people so it is suitable for presentation in court. It should be clearly divided into sections and, where appropriate, subsections. The language should be as straightforward and as simple as possible, whilst retaining complete accuracy and balance and being sufficiently detailed to allow other medical experts to fully comprehend the abnormality or injury being described.

It should be remembered that decisions with serious legal implications may be based partly, or even solely, on the pathologist's report. For that reason, it must be sufficiently detailed to allow these decisions to be made. It must be written in a fair and impartial manner, having taken into account all the relevant issues of the case.

7.2.2 Rapid interim account

Where the pathologist has agreed with the coroner, the police or the CPS that a rapid briefing in the locally agreed format should be provided, they will submit one within 14 days of the post mortem examination to both the coroner and the SIO.

The rapid interim account will normally set out the following information:

- a summary of the main findings of fact determined at the post mortem examination
- the provisional cause of death (if this can be provided at that time)
- the samples retained at the examination and where they are stored
- any additional examinations/investigations that are to be undertaken (with estimated timescales if known)
- It will make clear that the briefing contains information that may change as investigations progress and additional information becomes available.

It may contain advice to the police on matters that may be relevant to the investigation.

It will not contain any final conclusions and, therefore, is not subject to the requirement for a critical conclusions check.

7.2.3 Report preamble

The report preamble must set out, where known, the full name, age, etc. of the deceased, together with the date, time and place of the post mortem examination. The pathologist's name, qualifications and appointment must be stated.

In order to properly identify all the circumstances surrounding the post mortem examination, the report should also include the names of:

- the coroner on whose instructions the examination is being performed;
- the means by which the body was identified to the pathologist;
- any senior police officers and/or medical observers present; and
- the names of police photographers, scenes-of-crime officers or any other persons present.

7.2.4 History

The pathologist should summarise in their report the information that they were given before the post mortem examination was performed and should identify the sources of such information. The inclusion of background information, such as the deceased's duration in hospital and/or the treatment given prior to death, can be of considerable assistance to those reading the report, whether lawyers preparing a case for court or medical colleagues who may be asked to comment.

Much of this information is likely to have been provided to the pathologist during their initial briefing; it will also come from the deceased's medical history. Proper recording of this information is essential and reference should be made to section 4, The briefing, and section 5.2.4, Importance of notes, above.

The inclusion of a history has been discouraged by certain coroners. However, the PDB and the College do not regard this as satisfactory and consider it essential that the pathologist's report contains a history to be complete and able to stand alone. However, it is recognised that the history is essentially 'hearsay evidence', rather than reflecting the pathologist's own experience of the case, and the report should make quite clear the status of this information.

The report must make clear which facts are within the knowledge of the pathologist.

The Forensic Science Regulator and the Royal College of Pathologists have issued guidance on the history section.²⁷

7.2.5 The scene of discovery of the body

The record of the scene visit must include a note of the date and time of arrival at the scene, a note of the location, and a general description of the locus and the body.

A note must be made of recordings taken (e.g. environmental and body temperatures) and of any samples, etc. taken prior to removal of the body.

7.2.6 External appearance of the body

It should commence with a note of the state of the body as received in the mortuary and a description of the presence of any blood staining, etc. Detailed full length photographic images of the body both fully clothed and naked (front and back) should be taken, and close-up photographs of injuries, marks or other areas of interest (with and without a scale) should be taken at the direction of the pathologist. An inventory must be made of the clothing as it is removed from the body. Within this section should be a note of the height, weight and build of the individual. The presence and extent of rigor mortis should be tested for and noted if relevant. The position of hypostasis should be photographed and recorded. The limitations of any conclusions drawn from body temperature, rigor mortis or hypostasis should be made clear in the report.

Mention should be made of the hair, eyes, ears, nose, mouth, neck, scars, tattoos, fingernails, genitalia, anus etc., even if these are normal. Negative findings, for example the absence of petechiae in the eyes in suspected strangulation, are just as significant as positive ones.

7.2.7 Injuries

Injuries, no matter how trivial, must be described in detail using recognised terms, with measurements given. The position of injuries must be described with reference to appropriate anatomical landmarks and in some instances with reference to the height above the heel. The description must include the type of injury and an indication as to whether it is of recent origin. The pathologist should also direct the photographing (with and without a scale) of all injuries noted. A numerical identification system may be particularly useful where reference is to be made to specific injuries in other parts of the report. It may be helpful to record the injuries on an outline body chart, as this may assist the pathologist and others in any subsequent discussion of the case.

A separate section of the report dealing specifically with injuries may prove to be the easiest way of recording these findings, including both external and internal features. It is

best to describe the major injuries first and/or to group injuries according to type or anatomical location.

The individual numbering of injuries in the report is recommended.

7.2.8 Internal examination

The internal examination must follow the College's relevant guidance on post mortem examination practice. For ease of reading, the report should be divided into sections, each with an appropriate subheading.

Particular attention should be given to those organs that are diseased or injured and the pathologist should direct the taking of photographs (with and without scale) as appropriate. Also included should be the presence or absence of skeletal injuries, e.g. skull fractures. Where features out of the ordinary are found and the pathologist concludes that they are not relevant, the reasons for discounting these findings must be explained.

In addition to a full description of all the major organs, their weights should be recorded. Descriptions should be objective.

7.2.9 Supplementary examinations

Included in this section should be the results/reports (if available) of toxicological analyses, radiology, neuropathology, histology and of any other tests or examinations that were carried out.

For test results or any other finding included in the report, whenever the work is that of another person it must be made clear who has made the finding or produced the results.

The pathologist must ensure that all tests that they perform or commission, whatever the results subsequently obtained, are listed and revealed to those instructing them.

7.2.10 Commentary and conclusions

In this section, the pathologist should attempt to explain in easily understood language the cause and mechanism of death, as well as other relevant findings. This must be set out clearly and in a comprehensive manner to allow interpretation of the information by the police, coroner, CPS and counsel. The opinions expressed must be fair and unbiased and under no circumstances should be written to assist one side rather than the other. No information that may have a significant bearing on the death should be excluded, for instance in order to shorten or simplify the report. When giving an opinion, the pathologist must state clearly where that opinion is based on their own work and where it relies heavily

on the work, pathological findings, test results, etc. of others. They should also make clear all literature or other material relied upon.

A comprehensive and well considered commentary will be invaluable in many circumstances for the CPS to decide whether to proceed with a prosecution. This may have significant ramifications, e.g. in facilitating the release of a prisoner in custody or preventing a potential miscarriage of justice. There may also be financial implications if a decision is taken not to proceed with a case.

Where appropriate, comments should include details such as the amount of force likely to have been used, the type of weapon, the direction of injuries and the probable rapidity of death. In circumstances in which an assessment of the likely time of death is required, it must be given with adequate and defensible margins.

The conclusions reached following an examination should be clearly set out in the report, and it would usually be appropriate to give the reasons for reaching these conclusions. It is also essential to give some indication of the limits of reliability of such conclusions, and possible alternate explanations or opinions should also be given. Where features out of the ordinary are found and the pathologist concludes that they are not relevant, the reasons for discounting these findings must be explained.

From the scientific findings, the pathologist may be able to construct a picture of the sequence of events that occurred. However, the pathologist must clearly state how much of this is speculation. Should the findings suggest more than 1 picture of the sequence of events, then all the relevant scenarios must be stated.

In presenting the conclusions the forensic pathologist must comply with the requirements of Part 19 of the Criminal Procedure Rules² and Part 7 of the Criminal Practice Directions.

³ They should:

- where there is a range of opinion on the matters dealt with in the report, (a) summarise the range of opinion and (b) give reasons for their own opinion
- state the qualification, if they are not able to give their opinion without qualification
- provide a summary of the conclusions reached
- make a statement that they understand their duty to the court and have complied and will continue to comply with that duty

- make clear that they may change their opinion and will inform parties and the court should that happen.

The Forensic Science Regulator has issued guidance on the content of reports produced by expert witnesses.⁷

7.2.11 Cause of death

This should be given in the usual manner as prescribed by the Registrar General,⁹ that is 1(a), due to 1(b)....., II....etc. Since this system may not be familiar to lawyers and others who will read the report, it is important to elaborate on this information, for instance in the conclusion section of the report and, if appropriate, when giving evidence in court.

If, having considered all the evidence, no cause can reasonably be found for the death, then the pathologist must record it as 'unascertained'.

Specific guidance has been issued advising against the use of the term 'excited delirium' as the cause of death.²⁸

7.2.12 Retention of samples

The report must clearly indicate what material has been retained and submitted for further scientific examination, e.g. blood samples, swabs, etc. If these items are exhibited, the exhibit number must be noted in the report.

It is essential to include a list of any organs, such as the brain, retained for further examination, together with a note indicating where they are stored.

If no organs are retained, a simple statement to this effect should be made in the report.

7.2.13 Final check

Before the report is signed and issued, the pathologist must check it for errors such as typographical and grammatical mistakes. Simple mistakes, such as the substitution of 'left' for 'right' or 'millimetres' for 'centimetres', may significantly alter the interpretation of a finding by the reader. Furthermore, a poorly presented report with multiple errors gives the impression of a lack of care or interest in the completion of the report and, by inference, in the conduct of the post mortem examination and interpretation of the findings. Cutting and pasting from one report to another must be checked for accuracy in case features from the donor report are not accurate for the purposes of the report in which this information is 'pasted'.

7.2.14 Time of submission of the report

The report must be submitted to the coroner and a statement made to the police as soon as is practicable. In some instances, it is appropriate to submit a preliminary report, detailing as far as possible the expected timing of pending interim and final reports. If there is to be a significant delay, the reasons for this should be given and explained. Normally, delays should only be those occasioned by the need for time-consuming special investigations, such as toxicology, neuropathology or cardiac pathology. Routine histology should not be a reason for significant postponement of a final report. However, it is preferable that the report should be as detailed and comprehensive as possible, even if this causes some delay in its completion. In most instances, this will be more helpful to the user than the issue of multiple supplementary reports or statements.

7.2.15 Disclosure of information to the defence

There is a duty on the pathologist acting for the Crown to notify the police and the CPS of the existence of any 'unused' material. Such material may, in certain circumstances, be disclosed to lawyers acting for the defendant in a criminal trial. As well as samples taken at the post mortem examination, such material will include notes made during the course of the examination, reports and the first drafts of statements. If a pathologist is in doubt as to what constitutes 'unused' material, and what their duties are with respect to such material, advice must be sought from the Crown Prosecutor.

The overriding duty of the pathologist is to the courts and to assist in ensuring cases are dealt with justly. This requires that all findings are disclosed to the prosecution so it can fulfil its disclosure duties. It also means that all materials created or held by the pathologist are available for disclosure to the defence and, where appropriate, retained to be available in any future consideration of the case (e.g. appeal or investigation by the Criminal Cases Review Commission).

To achieve these requirements, all materials retained at the conclusion of the case must be held in a storage facility that meets the following requirements:

- the storage must be sufficiently secure to ensure that the continuity requirements of the CJS can be maintained
- the management of the store must be such that continuity can be established if required

- the conditions of storage must be suitable for the material and ensure that it will, as far as practical, be maintained in an appropriate state across the storage period
- the material must be retrievable routinely within a period of days and in urgent cases within hours
- the storage facility must have procedures in place for reviewing the retention of materials and disposing of material when the retention periods have expired.

The achievement of the requirements should not be dependent on the availability of the pathologist.

In England and Wales storage forms part of the financial model that underpins the provision of forensic pathology services.

7.2.16 Change of opinion

Where a pathologist wishes to change the view expressed in a statement or report, and the circumstances allow, this should be achieved by issuing a new statement/report that sets out the new position taken by the pathologist and the reason for the change.

Pathologists must not issue a re-worded report/statement without making clear why that has been done.

7.2.17 Views of others

Where another expert (e.g. a pathologist acting for the defence) agrees with the findings of fact of the pathologist, it is acceptable to state in the report that there was such an agreement. The pathologist can give evidence about such an agreement because they were present at the time the findings were confirmed. It should, therefore, be clear that the report refers to the fact that the agreement occurred.

However, the formation of an opinion on the significance of findings can be subjective and may be subject to change after further consideration. Accordingly, it is not acceptable to state that the other expert is in agreement with the reporting pathologists' opinion of the findings except in the specific circumstances set out below.

Where an expert has set out their views/opinions in admissible evidence it is acceptable to include a statement in a report that these are their views/opinions. Otherwise the pathologist should not, subject to the point below, state a position on the views or opinions of another expert. The reasons are that (a) the pathologist cannot be confident of the

views/opinions of another and (b) it risks introducing expert evidence by an unorthodox route.

In this area the provisions of Part 19.4(d) of the Criminal Procedure Rules² are relevant. This requires a clear statement of the information available to the person writing the report.

Where a report is prepared under Part 19.6 of the Criminal Procedure Rules² (e.g. setting out areas of agreement and disagreement between experts) or similar provisions, but written by 1 of the experts, it is acceptable to discuss the reviews of the other experts involved – as long as the report is an accurate representation of their views.

7.2.18 Family justice system

In a case where abuse or neglect is suspected, the pathologist may provide a provisional written report for child protection purposes setting out any initial opinions that may give rise to safeguarding issues. The family justice system (FJS) may need to consider the interim safety of other children affected by the death. The provisional opinions expressed by the pathologist are on the basis of suspicion only but must be sufficient to inform child protection agencies and the FJS if there are risks to other children arising from the circumstances of the death. This short report should, ideally, be provided within 24 hours of the conclusion of the post mortem examination and may accompany the provisional report to the coroner advising whether an investigation should be opened. The FJS takes decisions to safeguard children on the basis of there being reasonable grounds to believe that their immediate safety is at risk.

The FJS may request reports from a pathologist before the pathologist's report has been finalised and submitted to the CJS. In some cases, this request may come before all investigations have been completed by the pathologists or those providing information to the pathologist. It is acceptable for a pathologist to provide reports to the FJS even if based on incomplete investigations.

Where a report is provided to the FJS, the pathologist must comply with the provisions applying to the FJS (e.g. in England and Wales the Family Procedure Rules²⁹) and make clear any reservations about the information provided (e.g. because the investigations have not been completed). Where relevant, and possible, the pathologist should be clear on the potential impact of outstanding work on the opinions expressed in the report.

The pathologist must inform the commissioning parties in the CJS that a report has been provided to the FJS.

The coroner and/or family judge may ask that a pathology report is expedited in cases where there are family proceedings to prevent delay in proceedings concerning surviving related children. The Family Court is required to conclude proceedings concerning children within 26 weeks. If there are related proceedings in the Family Court that cannot conclude without the pathology report, the coroner and family judge will notify the pathologist at the earliest opportunity to request that the report is prioritised.

The FJS determines cases based on the balance of probabilities (more likely than not) rather than needing the judge to be sure. Therefore, a pathologist providing a provisional or 'early' report before the final report is provided to the coroner and the CJS may feel it appropriate to express an opinion based on the balance of probabilities that they would be unable to express on a 'satisfied so that you are sure' basis.

8 Conferences and other subsequent action

8.1 Standard

The pathologist will:

- a. attend any conferences called by the police or CPS to discuss the pathologist's report or other issues involved in the case
- b. explain clearly all findings and their interpretation in the context of the case
- c. consider alternative explanations, test alternative hypotheses, draw conclusions and give advice based on the facts of the case and established scientific principles
- d. state what is required before additional conclusions can be drawn and demand that those requirements are fulfilled before any additional conclusions are drawn
- e. identify, clarify and summarise areas of agreement and disagreement
- f. seek feedback to determine whether those involved understand the outcomes of the consultations.

The pathologist must record all relevant information and discussions as accurately and comprehensively as circumstances allow or ensure such a record is prepared.

9 The pathologist and the defence

9.1 Standard

The pathologist will:

- a. make every attempt to attend, where requested, any additional post mortem examinations made by a pathologist retained on behalf of any person charged in relation to the death (the 'defence pathologist')
- b. make available to that defence pathologist, with the approval of the coroner and, where relevant, the police and CPS, a record of all findings made at the examination, results from subsequent examinations and a copy of any report or draft report;
- c. ensure that the existence of all the material in the pathologist's possession – and any report arising from any further investigation – is, with the approval of the coroner and, where relevant, the police, disclosed to any defence pathologist; and
- d. within any restrictions imposed by the coroner, the police or the CPS work with the defence pathologist to identify areas of agreement and those areas of difference.

9.2 Code of practice

Although this code has been written primarily from the standpoint of the pathologist instructed by the Crown, practitioners should also be aware of the needs of lawyers who may be instructed by other parties, for instance those defending an accused person.

Where a second post mortem examination is to be carried out, the Crown pathologist should share all the information that they have obtained, whether or not they have concluded that it provides an explanation for the death. The initial examination may have caused changes to the body that will obscure findings made during that examination. It may also prevent the observation of other significant features. There is also a clear responsibility to avoid any interference with the body unless it is necessary to reach a proper understanding of the death.

In order to facilitate a post mortem examination conducted on behalf of the defence, the pathologist acting for the Crown must ensure that all specimens retained following the first examination have been preserved under the best possible circumstances. These specimens must be made available to the defence pathologist. If they are retained after any defence examination, possession of these exhibits must remain with the Crown pathologist unless otherwise directed by the court or by agreement with the CPS. The

pathologist acting for the Crown should be given the option to attend any examinations conducted on behalf of the defence.

The Home Office and Forensic Science Regulator have issued guidance on the provision of tissue to the defence.³⁰

If, during the second post mortem examination, a previously unrecognised finding is discovered by the second pathologist, this should be recorded as appropriate and discussed with the pathologist who carried out the first examination.

When a pathologist is instructed by the defence the same standards will apply. While the circumstances may be different, in that the pathologist will usually be examining a body on which a post mortem examination has already been performed, as far as possible the same high standards must be applied to any examination undertaken.

References to a pathologist acting for the defence should be interpreted to include a pathologist performing a second post mortem examination on behalf of the coroner – for example to facilitate the release of the body.

10 Attendance at court

10.1 Standard

The pathologist must:

- a. ensure that they are well prepared prior to attendance at court to give evidence
- b. ensure that all documentation relevant to the case is brought to court
- c. ensure that appearance and behaviour conform to acceptable professional standards
- d. deliver evidence in an audible and understandable manner
- e. give evidence consistent with the contents of the written report
- f. deal with questions truthfully, impartially and flexibly
- g. identify questions that are unclear and clarify these before offering a response
- h. give answers to technical questions in a manner understandable by those who have no technical or scientific training
- i. differentiate between facts and conclusions drawn from those facts, and ensure that any such conclusions lie within their field of expertise

- j. consider additional information or alternative hypotheses that are presented and, where warranted, modify conclusions already drawn
- k. where it appears that a lawyer has misunderstood or is misstating evidence, ensure that the court is made aware of that misunderstanding or misstatement.

10.2 Code of practice

Pathologists must ensure that they are appropriately prepared prior to attending court to give evidence. A copy of the pathologist's post mortem examination report, together with all contemporaneous notes, should be taken to the court. The evidence must be objective and fairly presented and attention must be drawn to any areas of speculation. Proper and objective consideration must be given to any interpretations or conclusions fairly raised by the defence, particularly if they are supported by their own expert opinion.

The role of expert witnesses is not to provide evidence that supports the case for the Crown or for the defence. Opinions must be objectively reached and have scientific validity. Witnesses must make it clear which part of their evidence is fact and which is opinion. The evidence on which that opinion is based must also be available.

New facts may emerge during an investigation, sometimes even during the course of the trial, which may cause the pathologist to modify a previously held opinion. The pathologist has a duty to give any new facts due consideration and ensure that their evidence remains objective and valid. If previously held conclusions can no longer be substantiated, any change of opinion must be promptly and clearly stated, irrespective of any possible embarrassment. Delay will not only potentially harm the administration of justice but will reflect adversely upon the reputation of the pathologist.

The pathologist should be willing to discuss the case with counsel and other experts at or before the court hearing.

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12 Membership of author groups

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