



DISPOSAL FOLLOWING PREGNANCY LOSS BEFORE 24 WEEKS OF GESTATION

1. Background

A continuous flow of enquiries to the Royal College of Obstetricians and Gynaecologists and the Department of Health highlighted the need for advice on disposal following pregnancy loss before 24 weeks of gestation.

2. Questions and Answers (Q&A)

2.1 *What is the purpose of this Q&A section?*

The proposed Human Tissue Authority, once set up, will take on responsibility for producing a number of codes of practice, which will cover different areas relating to the taking, storage, use and, where appropriate, disposal of human tissue. However, it was thought that the existing Department of Health advice on the disposal of fetal tissue, which dates from 1991, was inadequate and an interim measure was needed. Therefore, these questions and answers have been written to help health professionals in developing or modifying their NHS trust's policy in relation to disposal following pregnancy loss before 24 weeks of gestation. It refers to advice previously given in HSG(91)19¹ (see appendix) and replaces the advice given in EL(91)144,² which is hereby revoked. The issues covered by this document were consulted on by the Department of Health in the 2002 consultation, *Human Bodies, Human Choices*.³

This Q&A is suitable for the development of policies relating to disposal of fetal tissue resulting from a number of different pregnancy losses including, for example, ectopic pregnancies, miscarriage, early intrauterine fetal deaths and abortions. It is not intended to be used for patient information purposes.

This document will use the term 'fetal tissue' throughout for consistency but it is recognised that 'pregnancy loss before 24 weeks' covers a large developmental range and many different kinds of loss.

Although this Q&A does not mention the need for consent, NHS trusts should be aware that parental consent may be needed for some forms of disposal in their locality.

It must be acknowledged at the outset that this is a very difficult area of policy development and this document will not provide all the details relating to this area. It aims to cover the main issues and suggests sources of further information to assist health professionals in developing their NHS trust's policy. It also emphasises the need to handle this issue with sensitivity. It is essential that policies developed by NHS trusts ensure that the needs of the woman or couple are paramount.

2.2 Does this Q&A cover stillbirths and neonatal deaths?

No, this Q&A should not be used in relation to stillbirths and neonatal deaths.

Babies born dead after the 24th week of pregnancy are registered as stillbirths. It has long been recognised as best practice for hospitals to arrange and pay for the burial and cremation of stillbirths in hospital and the community (HSG(91)1).⁴

Any baby, irrespective of gestational age, that is born alive and then dies immediately afterwards is a live birth and neonatal death and should be treated as such in terms of registration and disposal.

2.3 Does this Q&A cover embryos created in vitro?

No, embryos created *in vitro* and which have not been transferred into a woman are covered by the Human Fertilisation and Embryology Act 1990 and disposal of these should be in accordance with the Human Fertilisation and Embryology Authority's Code of Practice.⁵

2.4 Does this Q&A cover collections of fetal tissue and stillbirths that have been retained for teaching or research?

This advice does not cover the disposal of collections of fetal tissue and stillbirths that have been retained for teaching or research. These will be subject to different guidance contained in a code of practice, yet to be published, that will specifically deal with disposal of existing holdings.

2.5 Should women or couples be given information as to what disposal options are available to them?

A woman or couple should be made aware that information on disposal options is available if they wish to have access to it. NHS trusts will wish to ensure that the availability of this information is clear to all, taking into account any particular needs of the woman or couple, such as literacy skills and language.

The information should make it clear who a woman or couple should contact if they would like to request a particular option and in what timescale. Any personal, religious or cultural needs relating to the disposal of the fetal tissue should be met wherever possible and should be documented in the woman's medical notes.

Some women or couples may not wish to receive information about, or take part in, the disposal of the fetal tissue. Provided that a woman or couple has been made aware that the information is available, these wishes should be respected. It should be clearly documented in the woman's medical notes whether information has been requested or not and, if so, whether it has been given.

2.6 Can women or couples elect to arrange disposal themselves?

Yes, any woman or couple who wish to make their own arrangements for disposal may do so.

2.7 How should fetal tissue be stored prior to disposal?

All fetal tissue should be stored in accordance with previous Department of Health guidance HSG(91)19 prior to disposal.¹

2.8 Can fetal tissue be buried?

Yes, fetal tissue can be buried provided that account has been taken of point 2.5 above regarding consultation with the woman or couple. NHS trusts who wish to bury fetal tissue will need to negotiate with their local burial authorities to establish what level of local service they will be able to provide. If the trust wishes to offer burial and this service is not available locally, it might consider negotiating with other service providers further afield. Communal burial is permitted for fetal tissue.

There is also the option for women or couples to bury at home, provided that certain criteria have been fulfilled. Fetal tissue should be supplied to women or couples in a suitable opaque container. For more guidance, please consult the additional references given below. Contact with local authorities to discuss issues relating to this option may be necessary.

2.9 Can fetal tissue be cremated?

Yes, fetal tissue can be cremated, provided that account has been taken of point 2.5 above regarding consultation with the woman or couple. Some crematoria are willing to provide a service to dispose of fetal tissue for NHS trusts but this is at their discretion. NHS trusts who wish to cremate fetal tissue will need to negotiate with their local crematoria to establish what level of local service they are able to provide.

The Home Office has confirmed that cremation of fetal tissue is not illegal and has provided the Department of Health with the following text, which is published in the Department's Code of Practice: *Families and Post Mortems*:⁶

'Fetuses over 24 weeks gestation may be cremated under the normal cremation regulations relating to stillbirths. The Cremation Regulations do not apply to pre-viable fetuses (i.e. those under 24 weeks gestation) but cremation authorities may cremate them at their discretion. Tissue removed from fetuses of less than 24 weeks gestation may also be cremated at the cremation authority's discretion. There is no legal duty under burial legislation to bury (or cremate) babies born dead before 24 weeks gestation, but nothing to prevent either option.'

If the trust wishes to offer cremation and this service is not available locally it might consider negotiating with other service providers further afield. Communal cremation for fetal tissue may be permitted by some crematoria.

Women or couples will need to be made aware that the cremation of fetal tissue does not often produce any ashes for them to scatter.

2.10 Can fetal tissue be incinerated?

Yes, fetal tissue from a pregnancy lost before 24 weeks may be incinerated, although how appropriate this is may vary with individual circumstances. In accordance with point 2.5 above, a woman or couple should be made aware that information on disposal options is available if they wish to have access to it and they should be given the opportunity to express any personal wishes.

Incineration should be carried out in accordance with previous Department of Health guidance HSG(91)19 and NHS trusts are reminded that the maceration and sluicing method of disposal is not permitted for fetal tissue.¹

2.11 Can the method of disposal provided by an NHS trust be flexible depending on gestational age?

In drafting their policies, NHS trusts may wish to take into account gestational age and the nature of the fetal tissue.

Women or couples may seek information about an NHS trust's policy on the disposal of fetal tissue. For this reason, all appropriate staff will want to be aware of their trust's policy and practice and be prepared to discuss it.

2.12 What about fetal tissue resulting from abortions carried out by private clinics on behalf of the NHS?

NHS trusts may wish to discuss issues relating to the disposal of fetal tissue with the independent-sector clinic carrying out abortions on their behalf.

2.13 Is there other reference material available on this subject?

Yes, NHS trusts may wish to refer to two documents that address this issue in some detail: *Pregnancy Loss and the Death of a Baby: Guidelines for Professionals*, published by the Stillbirth and Neonatal Death Society (1995), which is currently under revision, and *Sensitive Disposal of All Fetal Remains*, published by the Royal College of Nursing (2001). The Retained Organs Commission closed on 31 March 2004; however, it still has some guidance available on its website at: www.nhs.uk/retainedorgans.

Health professionals working in this challenging area are also encouraged to build professional networks to help support the development and modification of their NHS trust policy.

References

1. Department of Health. *Disposal of fetal tissue*. HSG(91)19. London: HMSO; 12 November 1991.
2. Department of Health. *Sensitive disposal of the dead fetus and fetal tissue*. EL(91)144. London: HMSO; 12 December 1991.
3. Department of Health. Welsh Assembly Government. *Human Bodies, Human Choices the Law on Human Organs and Tissue in England and Wales: A Consultation Report*. London: HMSO; 2002
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4. Department of Health. *The welfare of children and young people in hospital*. HSG(91)1. London: HMSO; 22 July 1991.
5. Human Fertilisation & Embryology Authority. *Code of Practice*. 6th ed. London: HFEA; 2003
[\[www.hfea.gov.uk/HFEAGuidance/ChairsLetters/1074004426\]](http://www.hfea.gov.uk/HFEAGuidance/ChairsLetters/1074004426).
6. Department of Health. *Families and Post Mortems a Code of Practice*. London: The Stationery Office; 2003
[\[www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4006800&chk=y%2BC4dv\]](http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4006800&chk=y%2BC4dv).

The Q&A was developed in association with representatives from:

- Antenatal Results and Choices
- British Pregnancy Advisory Service
- Child Bereavement Trust
- Confidential Enquiry into Maternal and Child Health
- Marie Stopes International
- Miscarriage Association
- Nursing and Midwifery Council
- Royal College of Midwives
- Royal College of Nursing
- Royal College of Obstetricians and Gynaecologists
- Royal College of Pathologists
- Stillbirth and Neonatal Death Society
- Welsh Assembly Government

This paper includes background to put the Q&A into context and was approved by the RCOG Standards Board.

The RCOG will maintain a watching brief on the need to review this guidance

Disposal of Fetal Tissue: Executive Summary

All fetuses and fetal tissue from termination of pregnancy must be incinerated. Full account should be taken of any personal wishes that have been expressed about disposal which require some other method to be used.

Action

As soon as possible, and no later than 1 January 1992, NHS authorities and trusts must ensure that:

- account is taken of any personal wishes which have been expressed about disposal of the fetus
- subject to the above, all fetuses and fetal tissue from termination of pregnancy, including suction termination, are incinerated. In the case of suction termination, this will normally involve some means of filtration to separate tissue from fluids
- prior to incineration, all fetuses and fetal tissue is stored in a secure container in a safe place. These containers must be made from opaque materials and be used to transport the tissue to the incinerator.

In some circumstances individual fetuses may be sent for pathological examination. Subsequent incineration will be arranged by laboratory staff.

The handling and disposal of clinical waste

The following documents contain guidance on handling and disposal of clinical waste, which includes all human tissue:

- The Safe Disposal of Clinical Waste Health and Safety Commission, issued under cover of HN(82)22
- Waste Management Paper 25, issued by the Department of the Environment in 1983
- Strategic Guide for Waste Management, issued March 1991 under cover of ELM(91)M/1.

All three documents recommend incineration for the disposal of human tissue.

Background

The Department has been reviewing arrangements for disposing of fetuses and fetal tissue following termination of pregnancy in the light of recent public criticism of the maceration and sluicing method of disposal, in order to provide for disposal in a manner which as far as possible matches current public views on this matter. While the maceration and sluicing method does not present a public health hazard, Department of Health policy is that it is no longer appropriate, and should be phased out as soon as possible.

Approved places in the private sector

The Department of Health is writing separately to places in the private sector approved for the termination of pregnancy under Section 1(3) of the Abortion Act 1967. Approved places are expected to phase out maceration and sluicing of all fetuses and fetal tissue by 1 January 1992. Compliance with this is a requirement for continued approval under the 1967 Act.