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Dear Professor Palmer

Working Group on Human Remains

Thank you for forwarding to the British Medical Association (BMA) your call for submissions to the Working Group on Human Remains. We appreciate that the questions raised by this inquiry are general ones, best resolved by open debate within society as a whole. We need to emphasise, therefore, that our comments do not purport to deal with these wide societal issues but focus almost exclusively on what is perhaps a side issue: that of collections of medical specimens in publicly funded institutions. We also welcome the fact that the President of the Royal College of Surgeons of England is a member of the group and can, therefore, point out any pertinent implications for medicine as your deliberations progress.

Obviously, this Association has been closely following the public debate about retention of human organs and tissue for research or education and the work of Professor Brazier for the Retained Organs Commission. Having read carefully the terms of reference for your own Working Group, we remain unsure as to whether there is any potential overlap of interests between it and the Commission. We would welcome clarification on this point since it may influence whether or not the BMA feels it needs to make any further submission.

We would also greatly appreciate a detailed definition of the relevant terms. "Human remains", for example, presumably covers entire cadavers, fetuses and any part of a human body including historical medical specimens, some which may have been voluntarily donated for a specific purpose.

Your invitation to submit views has been circulated to relevant BMA committees and their comments can be summarised as follows:

- We understand that the Working Party is concentrating on ascertaining the legal status of human remains in publicly funded museums and art galleries, developing potential recommendations for amendment of the law and producing guidance for safe keeping or return of such material. On the first matter of the current legal status of such material, the BMA is not able to offer substantial comment. Our understanding, however, is that the precise legality of archiving or displaying human remains for medical educational purposes or historical research is unclear, particularly since many collections pre-date modern legislation.

- In our view, the second issue of whether the law requires amendment hinges on at least two separate questions. Clearly, first of all it is essential to clarify in detail the scope and implications of the current law, including how far it extends retrospectively to cover collections of human material gathered in the past. Secondly, it is important to know precisely which collections of human material would be encompassed both by current and future law.
- Our members have enquired as to whether the collections of human material in UK medical schools, teaching hospitals and other hospitals would be covered in your deliberations? While such collections are not specifically mentioned, this might lead respondents to your invitation to make differing assumptions as to whether or not they are covered. I have been asked to raise this with you.
- In the medical context, we assume that modern law would differ in respect of human material which has been donated in the past by patients or their next of kin and material which has been collected without any consent. Verifying the consensual status of such material poses major problems in respect of historical collections. We would also argue that it would be inappropriate automatically to apply contemporary standards retrospectively to collections amassed decades or centuries ago when society's priorities were quite different. The current focus on voluntary consent to donation obviously does not sit well with historical collections and contemporaneous attitudes concerning post-mortem anatomical dissection of executed convicts in previous centuries, for example.
- Regarding the third part of your remit which concerns safe keeping and handling requests for return of material, we would feel that there is a very important educational and historical value in keeping medical collections safe and intact. Bone collections from graveyards and other long-held specimens have a major importance for current and future understanding of human development and evolution of disease. In our view, these should be kept at all costs.
- It goes without saying that all human remains must be treated with the utmost care, dignity and respect.
- Although your remit appears to be primarily focussed on law, we anticipate that moral arguments will inevitably be considered. In our view, the major moral arguments for retention or return of human material hinge on an assessment of the harms and benefits of each option. Such harms and benefits should be considered in the broadest sense so that the interests of society at large, those of specific populations as well as those of individuals are examined. Differing cultural sensitivities and beliefs about human remains would clearly need to be taken into account.
- By this reasoning, one would need to take proper account of the interests of living relatives of recently deceased donors of human material who could be anguished by the retention or display of those human remains. Similarly a specific community may be offended by the retention of a human part of what they regard as their communal heritage (such as has occurred with the Australian aboriginal community who claim the return of their ancestors' remains.) The degree of "harm" or "injury" experienced by such individuals or groups would need to be considered in relation to the perceived benefits, if any, for future society of retaining the material. In some cases, compromise may be possible by accurate models or replicas being made for display or small samples being retained in place of entire human remains.
- Other communities may welcome or be neutral about some form of display of human remains as long as due respect is shown (as in the case of saintly relics, for example).

- Many important medical collections pre-date modern thinking about consent and were driven by other imperatives. In our view, their continued existence provides important educational benefits without engendering any disadvantage to living people. Indeed, in many cases, it would be impossible to identify living people who could appropriately make any claim on the material. Therefore, in these situations, we see powerful moral arguments for keeping such medical collections intact.
- More recent medical collections are presumably already covered within the remit of groups such as the Retained Organs Commission.

In summary, we would welcome further clarification of the degree to which medical collections of human material fit within the Working Group's overall remit. If, indeed, they are covered, the BMA would welcome the opportunity to submit additional comments as your work progresses.

Yours sincerely

M J Lowe
Deputy Secretary