

Guide to human tissue legislation for journalists

1. About the guide, the Human Tissue Authority and how to contact us

About the guide

Areas within the remit of the Human Tissue Authority (HTA) are of public interest and receive media attention as a result. We are aware that the areas that the HTA regulates may also impact on editorial decisions and programme production. The guide aims to provide guidance on human tissue legislation to editorial departments within media outlets. We hope that information from this guide will be distributed to journalists working on relevant issues as required.

The guide aims to address some areas that we think are most likely to be an issue for media. There may be other areas we have not included in these guidelines. We would encourage journalists to get in touch with us should this be the case (see contacts details below).

The guide is split into three parts; the first is about the guide and the HTA, the second about offences under human tissue legislation and the third is on further issues that may be raised by legislation.

About the HTA and how to contact us

The HTA is a watchdog that protects public confidence by licensing and regulating organisations that store and use human tissue for purposes such as research, patient treatment, post-mortem examination, teaching, and public exhibitions. We also give approval for organ and bone marrow donations from living people.

We provide advice and guidance about two sets of legislation: the Human Tissue Act (HT Act) and the Quality and Safety Regulations. These laws ensure human tissue is used safely and ethically, with proper consent.

More information about the role of the HTA

HTA website:

www.hta.gov.uk/

HTA guide to key messages:

www.hta.gov.uk/db/documents/HTA_Guide_to_our_key_messages_final.pdf

Contacts

Should journalists want to discuss human tissue legislation, the role of the HTA and what this may mean for their work please contact:

Sarah-Jane Wakefield, Head of Communications, sarah-jane.wakefield@hta.gov.uk
or 020 72269 1958 or

Fiona McKinson, Communications Officer, fiona.mckinson@hta.gov.uk
or 020 7269 1959

2. Offences under human tissue legislation that may be relevant to media

Offences under human tissue legislation listed here are those most likely to impact on journalists. See the HTA website or contact us for information should you require more information on offences relating to human tissue legislation that are not detailed here.

Commercial dealings in human material

The HT Act prohibits commercial dealings in human material for the purposes of transplantation (for example, the sale of a kidney for transplantation is illegal under the HT Act). A person is committing an offence if they give or receive any type of reward for the supply or offer to supply human material for the purposes of transplantation. It is also an offence to look for a person willing to supply human material for transplantation purposes for reward or to initiate or negotiate any arrangement involving the giving of a reward for the supply/offer to supply human material for transplantation.

There are also offences connected with advertising, for example it is an offence to publish or distribute an advertisement inviting persons to supply/offer to supply human material for transplantation purposes for reward.

For more information, please see the HTA code of practice on Transplantation or contact the HTA for more information and advice:

www.hta.gov.uk/guidance/codes_of_practice.cfm

Should media have evidence suggesting that an offence has or may have been committed we would ask that you speak to the HTA at the earliest opportunity.

DNA theft

In most circumstances it is an offence to analyse human tissue containing DNA without consent from the person from whom the DNA came. DNA analysis includes paternity testing and testing for genetic disease. Should the media be considering DNA testing they should consult the HTA code of practice on Consent for gaining appropriate consent or contact the HTA for more information and advice:

http://www.hta.gov.uk/guidance/codes_of_practice.cfm

There are some exceptions to the need for consent, more information can be found at:

www.hta.gov.uk/guidance/non-consensual_dna_analysis.cfm

Public display of human tissue without a licence

The HTA licenses organisations that publicly display bodies of deceased people, or any tissue that has been taken from their bodies. Under the HT Act, consent must be given by a person in writing whilst they are alive, for their body to be displayed in public after their death. We do not license the display of human remains from people if they died more than 100 years ago. We also do not license the display of photographic or electronic images, for example on TV or in a textbook.

If media is planning on using human tissue from a deceased person, they should consider whether this process would result in displaying the material in public. An example to illustrate this point:

A television production company plans to film a group of schoolchildren observing the dissection of a human body for a documentary on human anatomy. The filming of the programme and its broadcast are outside the remit of the HTA. However, the viewing of the dissection by an audience, the schoolchildren, is considered by the HTA to be a public display and a licence is required. In addition, the television production company is advised that if the body is that of a person who died after the commencement of the HT Act, consent for their body to be used for public display has to have been given by the person before they died.

It is an offence to display human tissue to the public without a licence.

If journalists need clarification in this area, please contact the HTA for more information or read our code of practice on Public display:

www.hta.gov.uk/guidance/codes_of_practice.cfm

Unlicensed activity

Should journalists suspect activity requiring a HTA licence is going ahead without a licence, we would ask you to contact the HTA. This is because the HTA may need to take urgent action and any delay to this may, in some instances, put the public at risk.

For more information about activities that require a licence from the HTA see:

<http://www.hta.gov.uk/> or contact us for more information.

3. Other issues raised by human tissue legislation relevant to journalists

Transplants from living donors

The HTA is responsible for approving all solid organ transplants involving living people following an independent assessment process. All donors and recipients see a local Independent Assessor (IA) who acts on behalf of the HTA and as a representative of the donor. It is essential that the independent assessment process is not compromised in any way should media be interested in following this process. Key principles to ensure the process is not compromised include retaining anonymity until after the transplant operation and ensuring media interest does not result in any pressure to donate.

Should you be interested in living donation and the independent assessment process please contact the HTA for more information.

Breach of HTA licensing requirements or code of practice at a licensed establishment

Should media become aware that an establishment licensed by the HTA is not complying with our standards, for example after contact with a whistle blower, we would ask that media alert us immediately. This is because the HTA may need to take urgent regulatory action and any delay to this may, in some instances, put the public at risk.

A list of establishments licensed by the HTA is available at:
http://www.hta.gov.uk/licensing/licensed_establishments.cfm