

HUMAN TISSUE: SEIZURE, RETENTION AND DISPOSAL PROCEDURE
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**HUMAN TISSUE: SEIZURE, RETENTION AND
DISPOSAL (PROCEDURE)**

Owning Department: Specialist Crime and Capabilities

Department SPOC: DCI Major Investigation Team

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1. Procedure Aim

- 1.1 This procedure aims to ensure that Norfolk and Suffolk Constabularies are compliant with the Home Office and NPCC guidance around the retention of Human Tissue.

2. Applicability

- 2.1 Unless otherwise stated, this procedure applies to all police officers (including officers of the Special Constabulary) and all members of police staff (including police support volunteers).

3. Documentation

- 3.1 A single list of all material retained at the post mortem examination should be produced and a copy provided to the SIO, forensic pathologist and the coroner. The list should specify under what authority the material was taken (i.e. the coroner's authority or the police's authority).
- 3.2 This single list must be updated if material is returned to the body or to the next of kin or personal representative/s of the deceased; sent for further examination; or returned to the coroner for disposal. It should act as a comprehensive history detailing the continuity of material, which is easily auditable and from which the provenance of the material can be clearly ascertained. This principle also applies to material taken at any subsequent post mortem examination(s) - for instance a second or 'defence' post mortem.

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4. Retention and Continuity of Human Tissue Material (Within the UK)

- 4.1 Like any other property seized as part of a criminal investigation, material retained must be kept in secure storage and under suitable conditions (the pathologist will advise on this). The location of material must be properly recorded, indexed and easily accessible.
- 4.2 On occasions, human tissue material may be submitted for specialist examination and will be out of direct police control; the Senior Investigating Officer (SIO) must therefore ensure that the specialists who handle the exhibit **maintain its integrity and continuity** by fully documenting the receipt, storage and disposal of the tissue.
- 4.3 The police must maintain a system of tracking the location and storage of human tissue, and the holding institution (for instance the mortuary or hospital laboratory) must be informed of any instructions relating to its retention or disposal - taking into consideration the wishes of the next of kin and the deceased's personal representative/s. The location of all Norfolk and Suffolk post mortem exhibits will be stored on HOLMES or Athena.

5. Consultation with the Pathologist

- 5.1 The SIO should consult with the pathologist regarding any aspect of the investigation that may have a bearing on the continued retention or disposal of human tissue. This will ensure that tissue that is no longer required can be respectfully disposed of in a timely manner and conversely that police only retain tissue that is required for investigation purposes.
- 5.2 Consulting with the pathologist in this way will provide the SIO with confidence that human tissue is not being retained unnecessarily (see Disposal of Human Tissue Material below). Nevertheless, the final decision as to disposal rests with the SIO.

6. Examination of Samples by a Second (Defence) Pathologist

- 6.1 On occasions, samples are sent by the forensic pathologist conducting the initial post mortem, to a second forensic pathologist acting for the defence. In such cases, the first forensic pathologist should seek permission from the SIO to do this, and mechanisms should be put in place to ensure that such samples are returned to police to facilitate disposal in an appropriate manner. The Forensic Science Regulator has issued guidance in this regard entitled 'Provision of Human Tissue to the Defence'.

7. Sending Samples for Examination Outside of the Jurisdiction

- 7.1 There may be occasions when the Home Office's registered forensic pathologist, or the pathologist acting for the defence, wishes to send human tissue for examination to an expert outside of the jurisdiction (for instance where no suitable forensic expert can be found in the UK). It should be noted that the export of evidence can give rise to problems:

- The material will be outside the control of the police or coroner on whose authority it is held;

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- The material is no longer under the control of the courts in this jurisdiction;
- It will be difficult to supervise the actions of those in possession of the material;
- The risk of the material being lost is increased;
- The maintenance of continuity will be more difficult, and
- The material will be subject to the laws of the country to which it is exported, and this creates a risk of satellite litigation.

7.2 It is therefore recommended that human tissue is not exported outside of the three UK jurisdictions unless absolutely necessary (when for instance a suitable expert cannot be sourced within the UK).

8. Regular Reviews of Human Tissue Seized by Police

8.1 It is the responsibility of the SIO to ensure that reviews of human tissue exhibits are undertaken regularly throughout the investigation. This is particularly important prior to the release of the body and at the post-trial debrief. It is recommended that an early (or perennial) action is entered onto Home Office Large Major Enquiries System 2 ('HOLMES 2') for this purpose at the start of the investigation.

9. Disposal of Human Tissue Material

9.1 A debrief should take place at the end of each suspicious death or homicide inquiry to decide on the question of tissue retention. This should involve (as appropriate) the police, coroner, CPS and the forensic pathologist and be documented in a recoverable form. This does not need to be a physical meeting, but clear decisions need to be made and recorded in consultation (by whatever means) concerning the retention and disposal of human tissue. The Post Mortem Forensic Record form must be completed to record the exhibits retained during the post mortem and the de-brief decisions.

9.2 In cases where either:

- The outcome of the death investigation is not one of homicide; or
- The outcome of the death investigation is homicide, but the human tissue taken at post mortem is not required for the ongoing investigation;
- The human tissue should be returned to the body, if possible, prior to release to the next of kin/personal representative/s.

9.3 In cases where the body has already been returned to the next of kin or personal representative/s, tissue should be disposed of in accordance with the next of kin or personal representative/s wishes.

9.4 In any event, material should not be disposed of without prior consultation with the coroner who may wish to retain it for the purpose of their duties at an inquest.

9.5 Where appropriate, the CPS should also be consulted before final disposal of any tissue samples. Advice from the forensic pathologist will assist the SIO and CPS in this decision-making process.

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10. Actions When Initially Suspicious Cases Revert to Non-Suspicious

- 10.1 In many cases, the conduct and result of the forensic post mortem examination will help to inform the SIO at an early stage that the death is non-suspicious. It is possible that a decision may be made by the SIO to declare the death as non-suspicious immediately after the conclusion of the post mortem examination. In such cases, human tissue exhibits may already have been seized using police powers under PACE 1984 or the common law but are no longer required for police purposes.
- 10.2 Where this is the case, it is essential that the coroner is informed that the status of the investigation has changed, and that the coroner be consulted about disposal of the tissue – whether it is still required for coronial purposes, or whether it should be returned to the body for burial or cremation. It should be noted that if the material is disposed of by the police in accordance with an appropriate protocol, the HTA 2004 will not apply.
- 10.3 If the material is however retained on the coroner's authority, the consent requirements of the HTA 2004 do not apply although the licensing requirements will. This means that the coroner and those holding the material on his behalf will need to take steps to comply with the licensing requirements of the HTA 2004. In addition, the coroner may only retain samples to help identify the cause of death or the identification of the accused for so long as they need to be preserved for the purpose of fulfilling these functions.

11. Next of Kin and Personal Representatives Wishes Regarding Return of Body / Disposal of Human Tissue

- 11.1 Families should be asked if they wish to wait to receive the body complete (this could take a long time), or if they would prefer the body (even if not complete) to be returned as soon as possible. However, they should be made aware that some material from the body may be preserved for further examination or evidential reasons and possibly retained for many months or even years. For example, if examination of the brain is necessary, it is often more than six weeks before a report is available. In paediatric cases, delays may be even longer.
- 11.2 The wishes of the next of kin or personal representative/s regarding eventual disposal of human tissue taken at post mortem should be ascertained in writing – the form for this can be found here. This may include the following options:
- Return of material to the next of kin or personal representative/s for burial or cremation; or
 - Disposal by incineration at the request of the police.
- 11.3 It is essential to explain to the next of kin or personal representative/s the fact that small samples such as blocks and slides may be retained indefinitely (usually up to 30 years) depending on the individual circumstances of each case, and a record of the fact that this has been explained to them should be made and retained. This may be particularly so in cases where the perpetrator has been convicted and the material is retained until the convicted person is released from prison, or in undetected cases which will be subject to review.

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11.4 Retention of human tissue should align with any requirements of Management of Police Information (MOPI).

12. Disposal of Other Human Tissue Material Held on Authority of the Police

Pregnancy Remains

12.1 Regarding the disposal of pregnancy remains, which may have been retained in connection with a criminal inquiry; although the seizure will likely have been made under the relevant provisions of PACE 1984 or the common law, disposal in these extremely sensitive cases should be conducted, where possible, and dependant on the circumstances of the case, in the spirit of the HTA publication 'Guidance on the disposal of pregnancy remains following pregnancy loss or termination'.

Historically Held Human Tissue

12.2 Human tissue taken at post mortem is sometimes discovered at mortuaries and hospital laboratories by the HTA during their routine inspection regime of post mortem establishments. Such discoveries will be reported to the Home Office Forensic Pathology Unit ('HOFPU'), and they will liaise with the relevant police force to determine whether it should be disposed of.

12.3 The police must confirm to the holding establishment (e.g. mortuary or pathology laboratory etc.) whether the human tissue is still required for a criminal justice purpose, or whether it should be respectfully disposed of and inform the HOFPU of the outcome.

12.4 Material no longer required for a criminal justice purpose is divided into three categories as per the Forensic Science Regulator's guidance. How material is disposed of depends on which category the material falls into and each should be considered on a case-by-case basis. The following flowcharts, in conjunction with the National Decision Model, will assist in the decision-making process.

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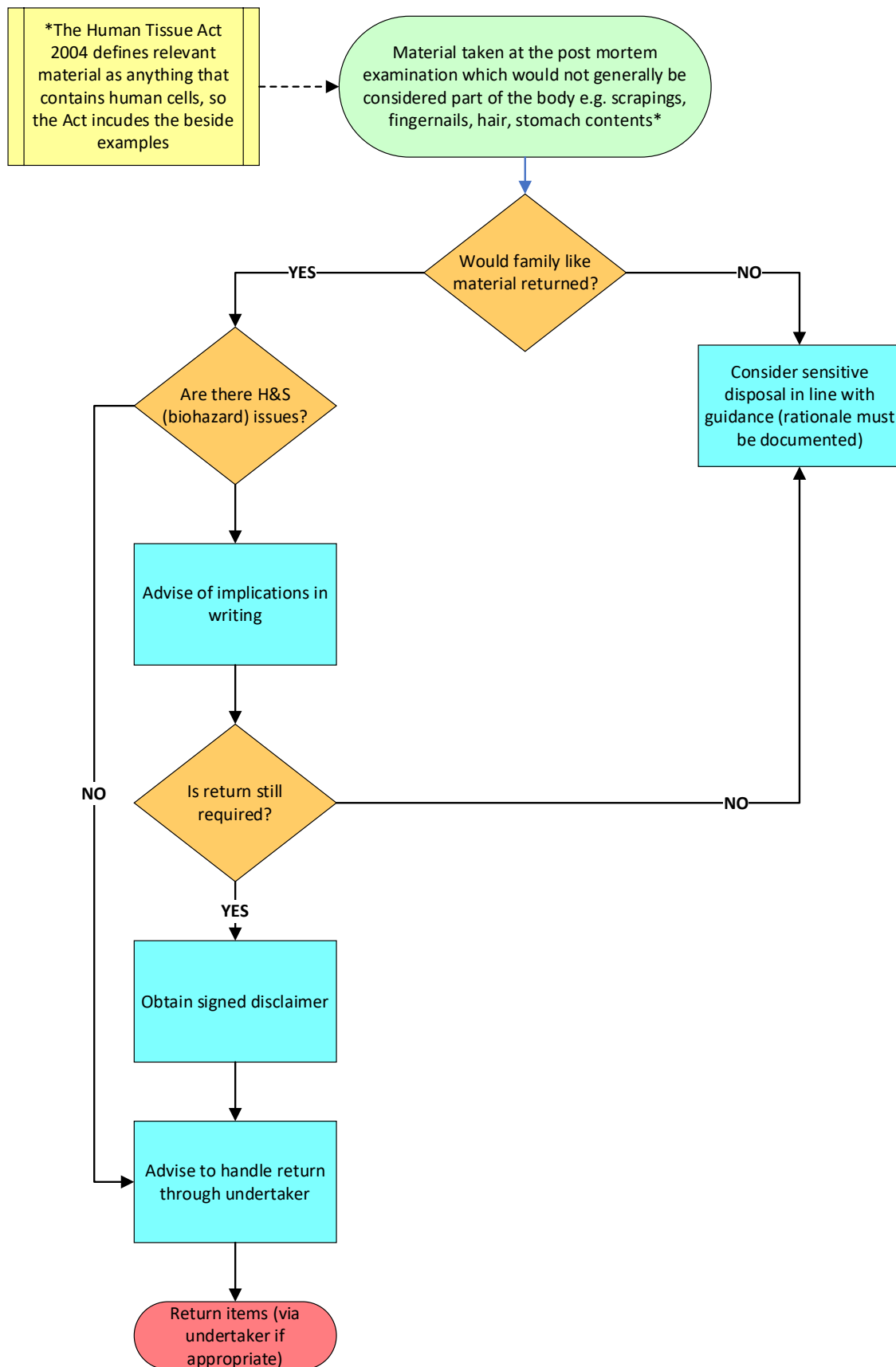
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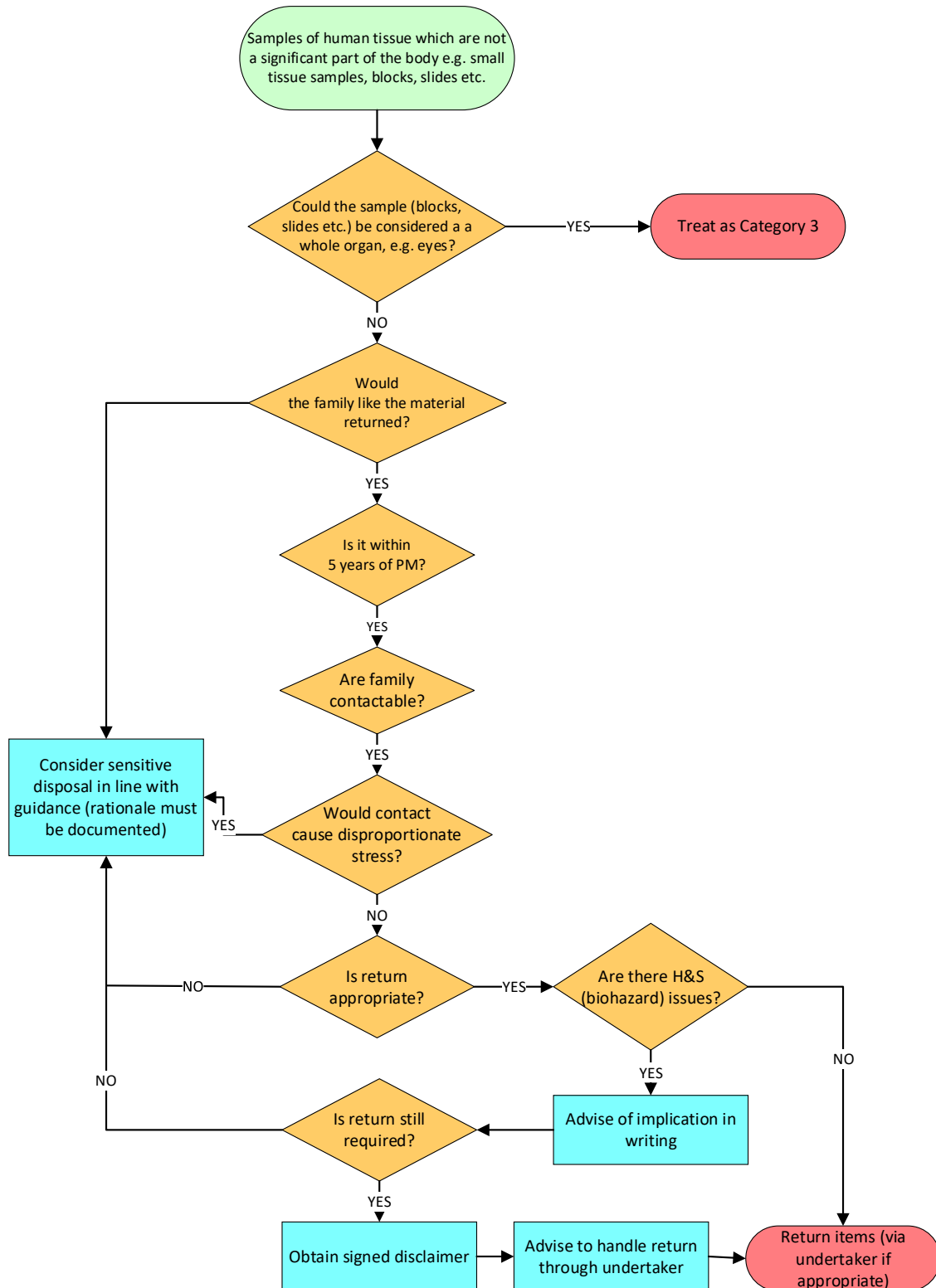
13. Process for Category 1 Material



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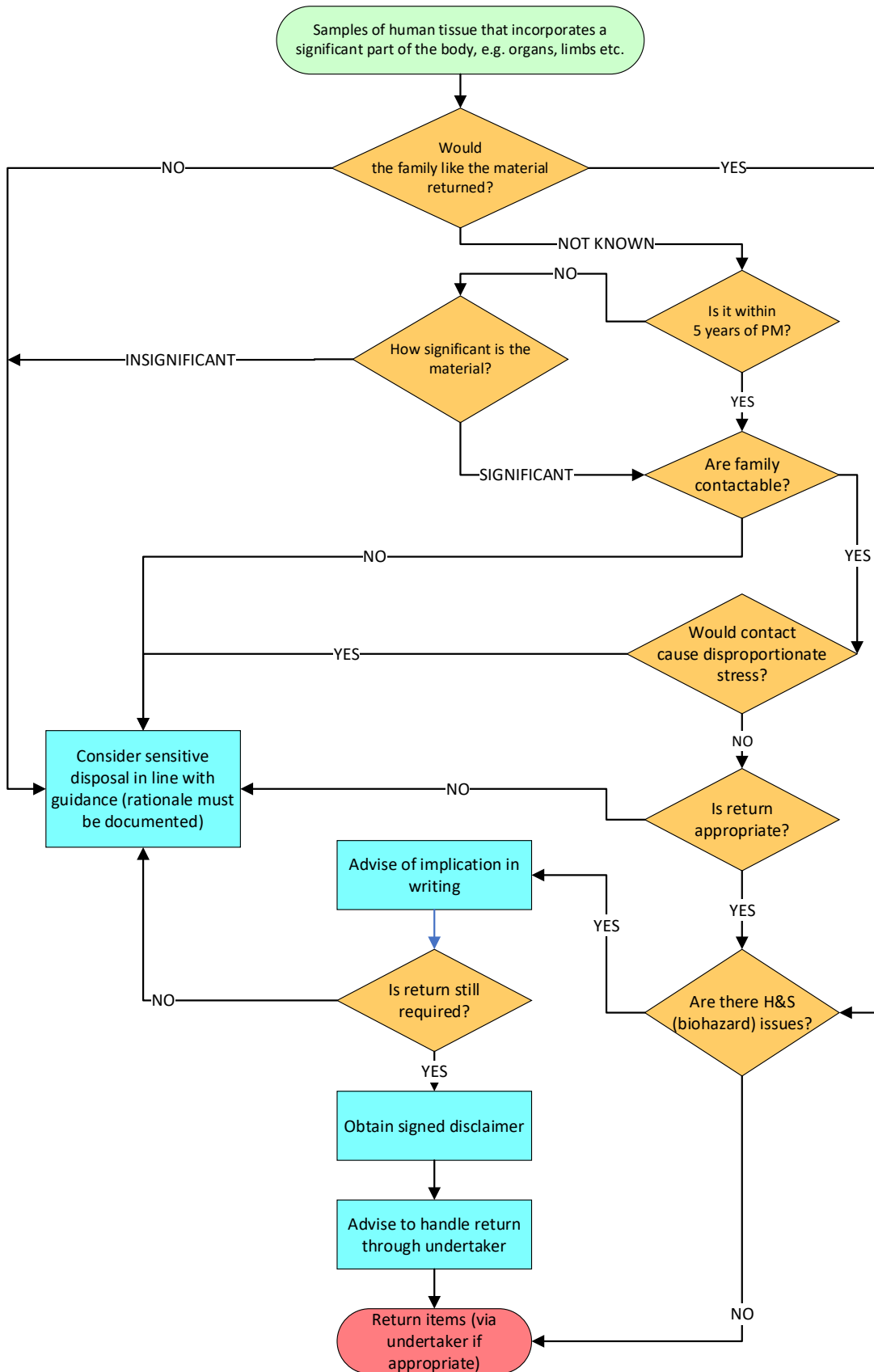
14. Process for Category 2 Material



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15. Process for Category 3 Material



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16. Roles and Responsibilities

Role Title	Responsibilities
The Coroner	<p>The Coroner is responsible for:</p> <ul style="list-style-type: none">• Informing the relevant persons about what material has been preserved.• Notifying the Chief Officer of police or prosecuting authority of any period for which they require material to be preserved or retained, in order that the police do not dispose of material which is no longer required for criminal justice purposes but may still be required for the purpose of the coroner.• Lawful control of the body and the decision for its release ultimately rests with them.
Senior Investigating Officer (SIO)	<p>The SIO is responsible for:</p> <ul style="list-style-type: none">• Ensuring the Coroner is updated about the progress of enquiries, in particular when these may affect the timely release of the deceased for burial or cremation.• Ensuring that the conclusion of the body examination process is communicated effectively to the family (via the Coroner's Officer and the FLO to allow the funeral to take place as soon as possible.
Family Liaison Officer (FLO)	<p>The FLO is responsible for:</p> <ul style="list-style-type: none">• Ensuring the families are kept up to date with details of when the body will be released for the funeral and subsequent burial or cremation. This should be facilitated through the Coroner's Officer after consultation with the SIO.• Deciding in liaison with the Coroner's Officer who will communicate with the next of kin or personal representative(s) so as not to duplicate contact.

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