

Academy of Royal Colleges Wales response to the consultation by the Health and Social Care Committee of the National Assembly for Wales on the Human Transplantation (Wales) Bill

The Academy of Royal Colleges Wales' membership comprises 15 Medical Royal Colleges and Faculties. The Academy aims to provide expert specialist advice to promote quality in healthcare for the benefit of patients in Wales.

Individual Colleges and Faculties have submitted their own responses to the consultation and draft bill. We would like to submit some generic comments based on responses submitted directly by the following organisations:

Faculty of Intensive Care Medicine
Royal College of GPs
Royal College of Paediatrics and Child Health
Royal College of Physicians

Section 2, relating to the promotion of transplantation

We welcome the inclusion of a section in the bill relating to the promotion of transplantation. It is important that the public is fully informed and aware of how the new system of deemed consent would operate and the implications that this may have.

The system of opting out will need to be carefully promoted to the public of Wales as there could be a considerable lack of understanding about how this will affect individuals. Patients whose first language is not English or Welsh will need special consideration as they may not understand the implications. Consideration also needs to be given to patients not registered to practices and those whose religious or cultural beliefs prevent removal of tissue and organs after death.

Section 3, relating to lawful transplantation activities

No specific comments.

Sections 4-8, relating to consent

The problems of tracking patients who move about is recognised in the Explanatory Memorandum. As throughout this Bill, its success depends on how far practical issues like this are addressed, as opposed to matters of basic principle.

Given that young people have higher rates of road accidents and hence the potential to be a source of organs, the residency assessment of students and the issues around their consent is important. A student who has started a course in September, takes up residence in late September or early October, is back home in England for a week mid-term and has a road accident immediately after a month at home in early February, for example, would be difficult to determine under the rules.

We would welcome further clarity with regard to the definition of 'ordinarily resident in Wales for at least six months'. In some cases such as with English students, many may still be registered with a doctor in England and be on the electoral role in England and their residency status unclear.

Sections 9-11, relating to offences

No specific comments.

Sections 12 -20, which make general provision

No specific comments.

2. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.

No specific comments.

3. Whether there are any unintended consequences arising from the Bill.

Potential changes, with a move to a system of 'opt out', could have a significant impact on Intensive care medicine resources. The UK has the lowest number of intensive care beds, and fewest intensive care specialists, per 100K population of any developed Western nation.

If deemed consent increases donation rates, it will certainly increase the number of potential donors being referred to intensive care for pre-emptive support until they meet the criteria for brain death or and donation. Whilst we accept that the bill is predicated upon the very reasonable desire to increase donation rates, unless the bed pool is increased even a small rise in occupancy could have quite a profound and adverse impact upon the needs of other patient groups.

Organs retrieved from Wales would not be prioritised to Welsh residents and there is unlikely to be a significant reduction in the Welsh waiting list for organ donation. This would need to be clear to the public.

4. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill).

We would be concerned about the emphasis on opt out process occurring at registration with a GP and the potential increase in additional work out with general medical service provision. There would likely be a considerable burden on GPs to ensure that the details of individuals were recorded accurately at the time of registration and for individuals to be made aware and to be informed about consent. We welcome the recognition of additional costs (included in RIA Appendix 1 of the Explanatory Memorandum) which relate to training requirements for staff to ensure they are competent to take such consent.

5. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Part 1, paragraph 90 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

No specific comments.