

Health and Social Care Committee  
Human Transplantation (Wales) Bill  
HT(Ind)46 - Dr Elizabeth Kubiak

Dear Mr. Drakeford

I am writing to you as Chair of the Health and Social Care Committee, as I believe this committee has been charged with review of the above Bill before it is taken to the Welsh Government this year.

Although I am a practising doctor in Wales, I have only just become fully aware of what is being proposed here, and am deeply disturbed both by the content of the Bill and by the relatively low-key way in which opinions have been sought from the public.

My objections to the proposals are as follows:

1) 'Presumed consent' is not a concept currently recognised in the law of England and Wales. 'Consent' for all other medical purposes is a highly specific term, and applies to informed consent, freely given after the procedure has been thoroughly explained, and witnessed as a true reflection of the person's wishes.

2) Allowing 'opting out' can only be considered a 'safeguard', if individuals who may wish to do this are appraised of this right, and understand how the system works. The individuals who may be most affected by this are those who are already in disadvantaged and 'marginalised' population groups. Allowing the Bill to go forward without a concerted effort to inform such people of their right to 'opt out' would be a betrayal of public trust. However, the time, effort and money that will need to be invested in this public education could be better utilised in educating the public about the need for donors, and providing reassurance that doctors are truly in a position to know when recovery of the individual is no longer possible (ie they truly are dead), but recovery and use of the organs still is feasible.

3) Intensive Care Consultants within and outside Wales have expressed their concerns about the potential effects of trying to prolong organ support in the clinically dead, in order to allow for organ retrieval. Intensive Care beds are already at a premium, and this new pressure is considered to have worrying implications for individuals needing such care at times of acute bed shortages. (See, for example, submission to January 2012 public consultation by Faculty of Intensive Care Medicine, London)

4) Pushing through legislation which does not have the will of a good majority of the population behind it is liable to increase misunderstanding and mistrust of both the political process, and of medical practice. Appropriately-resourced publicity and educational campaigns in favour of increased voluntary organ donation could, on the other hand, both improve transparency around, and increase public trust in the organ donation service.

The vote in January will be an extremely important one for the future of organ donation in Wales. Meaningful consideration of the expressed reservations of the people of Wales, and of professionals appointed to serve them in medical care, together with a true effort to engage with them and resolve their concerns could, conceivably, increase organ donor numbers. Unfortunately, the Bill in its current form could have the opposite effect, due to well-intentioned, but concerned individuals opting out, in order to demonstrate their frustration. It could also cause a major loss of public trust in the medical services in Wales.

Please ask the committee to consider very carefully the relatively hidden detrimental effects this Bill could have before making their recommendations to the Welsh Government,

Yours faithfully

Dr Elizabeth Kubiak  
Consultant Microbiologist