



## FREE CHURCH OF SCOTLAND (CONTINUING)

### Public Questions, Religion & Morals Committee

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23<sup>rd</sup> October 2014

Anne McTaggart MSP,  
MI.11,  
Scottish Parliament,  
Edinburgh  
EH99 1SP

Dear Mrs McTaggart,

#### Proposed Organ and Tissue Donation (Scotland) Bill

##### Response to Consultation

We write as the body appointed by our Church to represent its views to government and do so in response to the Consultation on your proposed Bill relating to organ and tissue donation in Scotland. As requested we answer the questions in the consultation and make some additional comments as appropriate.

**1. *The overarching purpose of my proposal is to move from the current opt-in system to a soft opt-out system of organ donation. Do you support this move? Please indicate "yes/no/undecided" and explain the reasons for your response.***

No. We do not support a move from the current "opt-in" system to a "soft opt-out" system of organ donation.

We believe that the current system is correct in that it respects the fact that the wishes of the individual must be paramount in this sensitive matter and not the wishes of the state. We abhor any idea that the state should take "ownership" of the remains of the deceased. We believe that only where the individual has given specific authorisation for the removal and transplantation of their organs after their decease should this be allowed to take place. We would ideally like to see the present Human Tissue (Scotland) Act 2006 tightened up in the following two ways: (i) so that the nearest relative may no longer authorise the transplantation of a deceased person's organs when the deceased person has not given that authorisation; (ii) so that the age at which children can authorise the use of their organs or tissue for transplantation after their death is raised from 12 to 18.

**2. *How essential is it to change the law (from an opt-in to a soft opt-out system) in order to achieve the intended benefits (increased transplant rates, reduced waiting lists)? Are there other (non-legislative) measures that could achieve similar outcomes without the need for legislation?***

We do not believe that the "intended benefits" for society which are cited (however they may be calculated) should be the determining factor in deciding whether this proposed change in the law should actually take place. It is wrong to take a utilitarian approach to what is in the end a personal, ethical and indeed religious matter.

Our sincerely-held view, based upon the Bible, is that the bodies of the deceased (in the context of the Consultation the 'deceased' are individuals who are brain-dead or nearly so and therefore incapable of independent respiration, being dependent on a life-support machine) should be treated with the utmost

respect and certainly not regarded as a resource to be 'harvested' for organs and tissues to suit the needs of others. A care for the mortal remains of the dead has always been a characteristic of the Christian faith: it is based on a belief in the resurrection to come in which all men will have a part (Acts 24:15) and on the example of what was lovingly done to Christ's own body (Matthew 27:57-60). Thus the Church has historically practised burial rather than cremation, unlike some other religions and the humanism which is prevalent today.

We believe that the proper step to increase the availability of organs and tissues for transplant would be to give greater encouragement to *living donations*. The range of organs and tissues which can be transplanted from living donors is surprisingly large. Organs involved include kidneys (more successful than from deceased donors according to the NHS) and parts of the liver, lung, pancreas and intestines. Tissues involved include skin, bone, marrow, stem cells and blood. The regenerative capacity of some tissues means that in their cases living donation can take place more than once. We do of course acknowledge that organ donation in particular is not entirely 'risk-free' for the donor.

We might also add that the data contained in the Consultation document do not indicate that moving from a system of 'informed consent' to one of 'presumed consent' will necessarily lead to a greater proportion of the population acting as organ donors: the figures from 2002 show three countries with a system of presumed consent (Israel, Sweden and Poland) actually having lower donation rates than the UK.

***3. I believe the role of the family should be limited to being consulted on whether they are aware of any (unregistered) objection by the deceased rather than asking for their consent. Do you agree? Please indicate "yes/no/undecided" and explain the reasons for your response.***

As we are not in favour of a move from the current "opt-in" system to a "opt-out" system we decline to answer this question.

***4. Do you think an individual should be able to appoint a proxy to the make the final decision regarding transplantation on their behalf? Please indicate "yes/no/undecided" and explain the reasons for your response.***

As we are not in favour of a move from the current "opt-in" system to a "opt-out" system we decline to answer this question.

***5. My proposal is that only adults should be automatically opted-in to be a donor. Younger persons would have to register to be a donor, by themselves or with parental consent as they currently do. This approach is I believe the best way to safeguard children and young people. Do you agree? Please indicate "yes/no/undecided" and explain the reasons for your response.***

As we are not in favour of a move from the current "opt-in" system to a "opt-out" system we decline to answer this question.

***6. Do you agree the age limit for an adult should be set at 16 years old? Please indicate "yes/no/undecided" and explain the reasons for your response. If you answered no, what would you consider a more appropriate age?***

As we are not in favour of a move from the current "opt-in" system to a "opt-out" system we decline to answer this question.

***7. Do you agree the soft opt-out system should apply to people who have been resident in Scotland for a minimum period of 1 year prior to their death? Please indicate "yes/no/undecided" and explain the reasons for your response.***

As we are not in favour of a move from the current "opt-in" system to a "opt-out" system we decline to answer this question.

**8. If you answered no to the above how long, if any, should this period of residency last before they become subject to the soft opt-out system? Would this residency need to be for a continuous period?**

As we are not in favour of a move from the current “opt-in” system to a “opt-out” system we decline to answer this question.

**9. Do you think 6 months is a long enough period to run a campaign prior to change over?**

As we are not in favour of a move from the current “opt-in” system to a “opt-out” system we decline to answer this question.

**10. What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?**

As we are not in favour of a move from the current “opt-in” system to a “opt-out” system we decline to answer this question.

**11. Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?**

As we are not in favour of a move from the current “opt-in” system to a “opt-out” system we decline to answer this question.

**12. Do you have any other comments on or suggestions relevant to the proposal?**

We think that moving to an “opt-out” system may well add to the distress of the deceased’s closest relatives. Not only would they have to cope with the trauma of losing their loved one but potentially they will also be faced with questioning as to what they think their loved one’s wishes were regarding the removal of their organs and tissues after death.

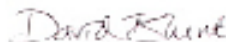
There is perhaps also a more general problem in what is being proposed in that if the authorities are seen to be increasing their ‘demand’ for the organs and tissues of the deceased it may lead to the perception – no doubt a wrong one – that in some cases death is being ‘hastened’ in order to secure organs and tissues.

The Bill deals with organ and tissue donation for the purpose of transplantation only. However if an “opt-out” system is brought in is there not a real danger that this will be the first step down a slippery slope to a situation where the bodies of the deceased will be regarded simply as commodities to be exploited and the removal of organs and tissues will be justified for a whole variety of reasons, including the very distasteful?

Overall we believe that the emphasis in transplants should be upon those procedures which are likely to produce a *significant* increase in the quality or duration of physical life for the individuals concerned.

Finally, while we do not question your sincerity in wishing to help those who may benefit from transplants we respectfully urge you to think again as to where your proposed change in the law may lead and not to proceed with your Bill.

Yours sincerely,



David Blunt (Rev.)