



The British Transplantation Society, KSAM, Chester House, 68 Chestergate, Macclesfield, Cheshire, SK11 6DY
☎ 01625 664547 ✉ secretariat@bts.org.uk

c/o University Department of Surgery
Box 202, Addenbrookes Hospital
Cambridge CB2 0QQ
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Mr Stuart Todd
The Public Petitions Committee
T3.40
Edinburgh
EH99 1SP

Dear Mr Howlett

CONSIDERATION OF PETITION PE1453 *Calling on the Scottish Parliament to urge the Scottish Government to introduce an opt-out system of organ donation in Scotland to help save more lives.*

You wrote to the British Transplantation Society (BTS) and asked us to provide a response to the above petition. I apologise that we missed the deadline that you set, but below are my thoughts as President of the BTS. The Society has previously voted on the issue of opt-out, or presumed consent, legislation and no clear consensus was reached. Concern was expressed by some who voted regarding the effects such legislation would have on the confidence in the doctor's actions being in the patient's best interests, and also the deleterious effect on transplantation of any mistakes where organs were removed in the presence of a wish not to donate. This has happened in France and caused a fall in donor rates.

There are five main points I wish to make.

1. Organ donor taskforce first report

The Organ Donation Taskforce's first report, *Organs for Transplants*, published in 2008 aimed to increase organ donation by 50% in 5 years. That target has almost been reached with donation rates showing a steady increase over the five-year programme. It could be argued that it would be sensible to wait to see where the rise in donation rate ends; there may be no need to do more if rates continue to rise. As a consequence of the increase in donation the waiting list for an organ transplant fell in the UK for the first time in 2010/11, and continued to fall in 2011/12 (NHSBT ODT Activity report 2011/12). Nevertheless I accept that this increase has been achieved without a change in the consent rate in the UK as a whole, so there is still room for improvement, something that opt-out legislation would address.

2. Organ donation taskforce second report

The second report of the Organ Donation Taskforce looked at the potential impact of an opt-out system for organ donation in the UK. This report decided against recommending an opt-out system at the time. Of the many considerations discussed by the Taskforce, of which I was a member, was whether a programme of public awareness campaigns might achieve the same increase in consent rates at less cost. While this has not happened in England, the Scottish Parliament were required to publicise transplantation and donation under the Human Tissue (Scotland) Act and have run very successful public information campaigns which have resulted in Scotland having the highest proportion of the population signed up on the organ donor register, and the highest consent rate for donation from brain dead donors.

3. Opt-out legislation in Wales

Opt-out legislation has been laid before the Welsh government. It would seem unnecessarily hasty to follow the same route elsewhere in the UK until the result of the Welsh experiment is known, both in terms of changes in organ donor numbers and also the cost involved. Once these are established a strong case can be made for all home nations to adopt the practice that was more successful, be that opt-in or opt-out. It would be sensible for the Scottish Government to closely observe the Welsh experience, and they may wish to identify areas now upon which they would like the Welsh Government to report following implementation.

4. Intensive care bed provision

Comparisons are frequently made between the UK and other countries where opt-out is practiced. However there is more than opt-out legislation that differs between ourselves and Spain and Belgium. The most important difference is probably in intensive care bed provision. Most deceased organ donors come from an intensive care unit, and the UK does have one of the highest donation rates per ITU bed of any country in the world. However we also have one of the poorest per capita ITU bed provisions, two thirds that of Spain and nearly a third that of Belgium. Data are reproduced in the table below. The Scottish Government may be better served investing in intensive care unit bed capacity, rather than opt-out legislation, a strategy that would benefit more than just those patients waiting for an organ transplant.

Country	Critical care beds / 100000 population
Germany	29.2
Austria	21.8
Belgium	15.9
Croatia	14.7
Italy	12.5
France	11.6
Spain	9.7
UK	6.6
Sweden	5.8

Data from figure 1 in Rhodes et al;
The variability of Critical Care bed numbers in Europe.
Intensive Care Med 2012;38:1647

5. Opt-out in other countries

It is always attractive to look at Spain and Belgium when discussing the possible success of opt-out legislation. Spain had opt-out legislation for 10 years before an increase in organ donation occurred, and that increase followed changes in the infrastructure of donation similar to those enacted after the first Taskforce report, the one that has already brought an almost 50% increase in donation in the last 5 years. Other countries in Europe have opt-out legislation, such as Sweden, where donation rates are worse than ours. It should not go un-noticed that Sweden also has a critical care bed provision as poor as ours.

Finally, the British Transplantation Society would be supportive of any moves to raise the profile of organ transplantation and increase organ donation in the four home nations, and congratulate the Scottish Government on their recent successes in achieving both of these by public education.

Yours sincerely

Chris Watson
President