The National Assembly for Wales Health and Social Care Committee

Submission on the Consultation on the Human Transplantation (Wales) Bill

I make the following submission to the Committee in a personal capacity. I was formerly a GP for almost thirty years and am currently director of studies in medical ethics and law at Masters’ level in a University College in the UK. Up until five years ago, I was strongly supportive of moving to a soft ‘opt out’ position on organ donation, but I now have increasing reservations about opt-out policies in general and about the National Assembly for Wales’ proposed legislation in particular.

My concerns were particularly heightened in 2012 when lecturing to a group of healthcare practitioners and academics from Brazil at the University of Surrey.

In brief, there are three main points to which I wish to focus the Committee’s attention.

1. Though there is some evidence that change to an opt-out system can result in an increase in organ donation, as in Belgium and Austria, such a change does not in itself guarantee such an increase, as in Sweden where rates remain far lower than in the UK despite having a soft opt out since 1996. Whether the UK should adopt an opt out remains ‘finely balanced’ not a clear certainty.

2. As one US blogger, observing this debate, shrewdly observes “Fears don’t have to be well-founded to make the donation rate go down, they just have to be widespread.” I have no doubt you will have had many submissions detailing the fears that may arise – some justified and others probably not, but ‘perception is all’ in regard to fear. Although the Assembly has indicated the Bill would propose a soft opt out, in fact it contains no provision providing next of kin with a right to object to the removal of organs when no consent was given by the deceased. Though this ‘hard opt out’ scenario has recently been advocated by Shaw, the Assembly should note that without exception, every online response to Shaw’s article, including my own, indicated reservations or opposition to Shaw.

3. I was left in no doubt by the reaction of my Brazilian colleagues last year, that the Brazilian hard opt out system, which was a disaster and had to be rapidly reversed as donation rates there plummeted, is still a cause of national shame even 15 years later. The Assembly should certainly take heed the reasons for the failure of hard opt out in Brazil and ensure that Wales does not follow a similar course.

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http://crookedtimber.org/2010/05/05/presumed-consent-in-theory-and-practice/

Shaw D 2012 We should not let families stop organ donation from their dead relatives BMJ 345:e5275

http://www.bmj.com/content/345/bmj.e5275?tab=responses