

There are not enough organs available in this country for patients needing a transplant.

Should the UK move towards presumed consent for organ donation?

Many members at Congress this year clearly thought so when they voted in a resolution, submitted by the RCN Pain Forum, on this issue. It's a complex debate, however, and during the Congress discussion many members put forward their views. As a follow-up, we thought we would ask two experts what they thought.

Barbara Neades is Senior Lecturer/Lead for Placements & Mentorship, Napier University Edinburgh/NHS Lothian. She is a member of the RCN Ethics Advisory Panel.

“ UK Transplant highlights the growing gap between those waiting for a transplant (currently 7,234) and the numbers of organs available for transplant in 2007 (3,086). Under current legislation in the UK, there is an 'opt in' approach for organs available for donation. Anyone wishing to donate their organs can achieve this in two ways, either by completing an organ donation card or adding their name to the organ donation register.

Using this approach to donation, on average the UK produces 12 organs per million population (pmp) a year. Currently only 14.2 million of the population of 60 million have added their name to the organ donation register, and many people do not carry a card or inform anyone of their intention to donate. This is despite research suggesting that between 60-90 per cent of the UK public are in favour of organ donation. As a result many viable organs are lost every year and many people die on the waiting list each year in the UK who could have been saved had an organ been available.

To address this, some suggest the adoption of a presumed consent legislation approach or 'opt out' system, as used in many European countries. Here, using a national register of objectors to organ donation, should an individual choose not to donate their organs they can record this on this register, with this being made accessible to the transplant co-ordinators within that country. If the deceased has not recorded an objection on the 'opt out' register, organs are made available for transplant.

Under the 'soft opt out' form of this legislation, the relatives of the deceased are also involved in the organ donation decision-making process, confirming that they know of no objection by the deceased to donation, thus ensuring that the wishes of the deceased are upheld.

Using this approach, Belgium recorded 20.2 donors pmp, Austria 23.4 pmp, France 20 donors pmp and Spain 34 pmp per year, far more than the numbers of organs produced in the UK. The potential lives that these organs could save alone presents a very strong case for the adoption of a presumed consent legislation approach to organ donation within the UK. **”**



If you would like to hear the Congress debate and read a report of it, please go to the RCN website at www.rcn.org.uk

On the podium: Presumed consent

NO



PAUL WAINWRIGHT

Paul Wainwright is Professor of Nursing at Kingston University and St George's University of London. He is also Chair of the RCN Ethics Forum Steering Committee and has published widely on health care issues.

“ There is a desire to increase the number of organs available for transplantation and thus to alleviate the suffering of patients with organ failure. Presumed consent has been proposed as a means of increasing organ supply.

Put simply, the argument in favour of presumed consent runs: Organ donation brings benefits to recipients at minimal cost to donors. The benefits are so great that there should be a presumption that any potential donor who has not registered an objection should be presumed to have consented to their organs being harvested.

This proposal should be resisted.

Firstly, we should drop the idea of 'presumed consent'. As Professor John Saunders argues in his paper *Strategies for procurement of organs for transplantation: mandated choice* (Royal College of Physicians, 2008), presumed consent is no consent at all, being 'an affront to the moral principle that is the foundation of consent'. As Saunders says, it is at best a matter of presumed lack of objection.

The requirement to register one's objection will also disadvantage people who, for many reasons, will not be able to do this. The real issue concerns what society thinks it acceptable to do to the body of a deceased person, regardless of their consent.

Secondly, the Human Tissue Act (2004) was drawn up following events at Alder Hey, when body parts and tissue samples were removed without consultation or permission. The Act places significant restrictions on the removal of tissues and requires 'appropriate consent' (in Scotland, 'authorisation by an appropriate person' – the Human Tissue (Scotland) Act 2006). If the removal of tissue from a cadaver is felt to be so distressing that it requires stringent control, it is difficult to see why organ harvesting should not be at least as strictly regulated. And there is no suggestion at present that objections from next of kin would be over-ridden even if the deceased had left clear instructions.

The third reason is that evidence from other countries suggests it is not necessary. If we accept that, regardless of the wishes of the deceased, the agreement of the family will be required, the best course of action would be to improve the way in which we manage end of life care, and particularly the way we involve the family in this process. Investment in the transplant services, and in particular in the role of the transplant co-ordinator, is likely to be more effective and less likely to cause distress to the living.

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