Dear Sirs

Re. Transplantation Bill: ‘Authorisation by operation of Law’ in the absence of registered opt out - Financial Scrutiny

NHS Blood and Transplant have reviewed the proposals to change the legislation regarding authorisation of deceased organ donation in Scotland and in particular the Financial Memorandum accompanying the Explanatory Notes to the Bill. As the Organ Donor Organisation for the UK, we wish to make it clear that we work within the legislative systems set out by each of the four UK governments. We have worked closely with policy officials in Wales to make sure that the Human Transplantation (Wales) Act is implemented smoothly and we would expect to provide the same support to any legislative change in Scotland.

This letter is in response to the financial scrutiny only: a separate letter will respond to the Bill as a whole.

NHS Organ Donor Register
The NHS Organ Donor Register has been rebuilt to accommodate the requirements of the Welsh Legislation and to be consistent with current legislative requirements of England, Scotland and Northern Ireland, the Scottish approach to opt out will require changes to be made to the register. For example, although the changes to the ODR have already been made to allow people to record a decision not to donate or to record the names of two proxies, Scotland is proposing three proxies. Any further amendments to accommodate the provisions of this law will incur a cost to change the Register. Changes will also need to be made to public facing websites and this may have a cost also. We would also note that there will be additional costs associated with increasing numbers of registrations on the ODR (communications confirming details of registrations, administering the proxy system etc.) It is too early to estimate these costs.

The Organ Donation Service
Implementing the new law: we will need to rewrite all the relevant policy documents and operating procedures to take account of the new law and train our Specialist Nurses: Organ Donation (SNOD) and Clinical Leads. Broadly this would be in line with costs in Wales - a total of £364,105. It should be noted that NHSBT would not expect to train other staff in emergency departments, intensive care, Tissue Services etc who will need to work within the new law, but such staff would need to be trained.

Recurrent costs: we note that the expectation is that NHSBT will absorb the operational costs of increased donor numbers within the existing baseline as we have been able to do in Wales. The expected increase in donor numbers in Wales was 15: using the same methodology the expected increase in Scotland could be 36 to 79 donors. If donor numbers are at the upper end of this estimate, proportionally this is a much greater increase and nearly doubles donor numbers in Scotland. Currently we have two staff on call in the Central Belt at any time and one in the north of Scotland. If the increase in donor numbers require us to facilitate more than three donors in Scotland at a time then we will need to increase the number of staff on call with the associated costs.
Publicising the new law
We expect that there will be ongoing costs for the Scottish Government associated with publicising the new law: for example Wales intend to communicate with every citizen as they approach their 18th birthday so they are aware of their responsibilities under the law. This will be an on-going activity and not time-limited.

Authorised Investigating Personnel
Potentially the most significant financial issue relating to the Bill is the cost of the Authorised Investigating Person role. It is unclear from the Bill and accompanying memorandum what qualifications and skills will be needed to undertake this role. It appears that there may be an expectation that this role will be carried out by existing NHS staff such as the Specialist Nurses. We have a number of concerns about whether the Specialist Nurses are the right people for this role which we will explain in our general response to the Bill.

If those undertaking the AIP role are new staff then it will be necessary to provide a 24/7/365 rota to ensure attendance at all potential donors. If we compare this with the cost of providing the Specialist Nursing Service in Scotland currently the details are as follows:

- 18 WTE Specialist Nurses in Scotland
- 24 Hospitals Covered by Specialist Nurses
- £63,826 Average salary (including out of hours payments and expenses) of a Scottish SNOD

If it is concluded that a rota of AIPs comparable to the Specialist Nurses is required then the total additional cost would be in the region of £1.1m for pay, on call and travel costs.

As the role of the AIP is more limited than a SNOD, it may be possible to have fewer of them. It would be worth establishing whether this role could be undertaken remotely to reduce travel and on-call costs.

Consideration will need to be given to how the 6 tests the AIP needs to apply are recorded. If the role is to be carried out by the Specialist Nurses then we would need to amend (with associated costs) our new digital donor record. If the function is carried out by another professional, then recording the findings and transmitting these to our Specialist Nurses needs to be carried out securely and digitally so that the retrieving surgeon has all data available before the operation begins.

Unfortunately NHSBT is unable to give more detail about the costs of implementing a new law and maintaining services when the new law is in operation at this time but we will be happy to provide more detail as plans develop.

Yours sincerely,

E Sally Johnson
Director of Organ Donation and Transplantation
NHS Blood and Transplant
Email: sally.johnson@nhsbt.nhs.uk
Web: www.organdonation.nhs.uk