

# **PROPOSED TRANSPLANTATION (AUTHORISATION OF REMOVAL OF ORGANS ETC) (SCOTLAND) BILL**

## **STATEMENT OF REASONS BY MARK GRIFFIN MSP ON WHY NO FURTHER CONSULTATION IS REQUIRED**

### **Background to current proposal**

1. In line with Rule 9.14.3 of Standing Orders, this statement of reasons is lodged in conjunction with my draft proposal for the Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill. The proposal was lodged on 19 December 2016. The proposal is for a Bill—

to amend the law on human transplantation, including by authorising (in certain circumstances) the posthumous removal of organs and tissue from an adult who had not given express consent.

2. The proposal is the same as the one lodged by Anne McTaggart MSP on 26 June 2014, details of which are outlined below.

### **Consultation on the previous proposal and Bill**

3. In the last session of the Parliament, Anne McTaggart MSP consulted on the same draft proposal. That proposal was lodged on 26 June 2014 and consulted on until 25 September 2014. The consultation document is available from this link:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/78936.aspx>

4. Anne McTaggart's consultation sought views on changing the system of organ and tissue donation registration from an opt-in system to a 'soft opt-out' system in Scotland. The basis of the proposed soft opt-out system would be that organs and tissues could be removed posthumously from an adult who had not registered or expressed an objection during their lifetime. In contrast, the current opt-in system of organ and tissue donation encourages those wishing to become a donor to register on the NHS Organ Donation Register.

5. The consultation document was issued to 52 organisations, including inviting comment specifically from representative equality and religious groups.

6. In total 559 responses<sup>1</sup> to Anne McTaggart's consultation were received, of which 529 were from individual respondents, including 3 MSPs, and 30 were from organisations.

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<sup>1</sup> Summary of consultation responses to a proposed organ and tissue donation (Scotland) Bill. Available at: [http://www.scottish.parliament.uk/S4\\_MembersBills/Bookmarked\\_Organ\\_Donation\\_Consultation\\_Document.pdf](http://www.scottish.parliament.uk/S4_MembersBills/Bookmarked_Organ_Donation_Consultation_Document.pdf).

7. In addition, the Health and Sport Committee issued a call for views<sup>2</sup> on the Bill on 8 September 2015 and carried out an online survey on the main provisions of the Bill which ran from 8 September until 16 October 2015. The survey received a total of 856 responses. Most of the submissions were from health related organisations including groups representing health professionals and health clinicians, health boards, research and health charities such as the British Heart Foundation Scotland. A summary of the survey results was published<sup>3</sup>. The survey showed majority support for all of the Bill's proposals, with 88% agreeing with the fundamental proposal of registering in advance an objection to removal of your organs upon your death.

8. The Health and Sport Committee took oral evidence over four meetings in November and December 2015. On 17 and 24 November the committee took evidence from stakeholders with a range of views on the Bill. The committee also held three informal meetings with organ donor recipients and those awaiting a transplant and concluded with a meeting with faith and belief group representatives. The committee undertook a fact finding visit to Madrid, Spain in October 2015. A stage one report<sup>4</sup> was produced by the committee on 29 January 2016. The Stage 1 debate<sup>5</sup> on the Bill took place on 9 February 2016.

### **Other relevant consultation**

9. In addition to the extensive consultation on the member's bill brought forward on this issue in the previous session of the Parliament, a number of other relevant consultation exercises have been undertaken on the issues involved.

10. In July 2013, the National Assembly for Wales passed the Human Transplantation (Wales) Act<sup>6</sup>. The Bill was consulted on for 12 weeks starting in June 2012 which received 2,977 responses which were summarised and published in October 2012. Prior to this there had also been a consultation on a Welsh Government white paper<sup>7</sup> in 2011/2012 which received 1,234 responses. The Bill was then consulted on by committee.

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<sup>2</sup> Call for Views - Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/91948.aspx>.

<sup>3</sup> Health and Sport Committee, results of online survey, 13 November 2015.

Available at:

[http://www.scottish.parliament.uk/S4\\_HealthandSportCommittee/Inquiries/SmartSurveyResults.pdf](http://www.scottish.parliament.uk/S4_HealthandSportCommittee/Inquiries/SmartSurveyResults.pdf).

<sup>4</sup> Health and Sport Committee, Stage 1 Report on the Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill. Available at:

[http://www.scottish.parliament.uk/S4\\_HealthandSportCommittee/Reports/HS042016R03.pdf](http://www.scottish.parliament.uk/S4_HealthandSportCommittee/Reports/HS042016R03.pdf).

<sup>5</sup> Official report, Stage 1 debate on the Transplantation (Authorisation of Removal of Organs etc.) Scotland Bill, 9 February 2016. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10362>.

<sup>6</sup> Human Transplantation (Wales) Act 2013. Available at:

[http://www.legislation.gov.uk/anaw/2013/5/pdfs/anaw\\_20130005\\_en.pdf](http://www.legislation.gov.uk/anaw/2013/5/pdfs/anaw_20130005_en.pdf).

<sup>7</sup> Welsh Government Consultation Document, Proposals for Legislation on Organ and Tissue Donation, A Welsh Government White Paper, 8 November 2011, Available at:

11. In 2014 the British Heart Foundation (BHF) Scotland and British Medical Association commissioned a poll on this issue which found that nearly six in 10 (57%) of the 1,001 adults polled, said that they were in favour of a move to an opt-out transplant system with safeguards. A further poll commissioned by BHF Scotland in 2015 found that 62% of the Scottish population was in favour of an opt-out system.

12. The Scottish Government launched a consultation<sup>8</sup> on 7 December 2016, '*Organ and Tissue Donation and Transplantation – A consultation on increasing numbers of successful donations*' which will run until 14 March 2017. The consultation has been launched to seek views on ways in which the number of organ and tissue donations in Scotland can be increased. The option of a workable 'opt out' system is included in the consultation.

## **Conclusion**

13. Given that Anne McTaggart's consultation took place a little over two years ago on the same proposal, and on the basis of all the information detailed in this statement, including the fact that the Scottish Government has recently launched its own consultation, I do not consider that further consultation needs to be conducted on my proposal for a Bill. I believe that there is ample published, current and pertinent information to help test, develop and refine my proposal and that further consultation on an identical proposal would duplicate effort, incur unnecessary cost and could create the impression of 'over consultation'.

14. I therefore request the Committee considers this statement of reasons and indicates whether it is satisfied with the grounds I have set out above to justify the absence of a consultation paper on my draft proposal.

**Mark Griffin MSP**  
**19 December 2016**

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<http://www.wales.nhs.uk/sitesplus/documents/866/5.3b%20Organ%20and%20Tissue%20Donation%20Consultation%20Document.pdf>

<sup>8</sup> Scottish Government, Organ and Tissue Donation and Transplantation – A consultation on increasing numbers of successful donations. Available at: <https://consult.scotland.gov.uk/health-protection/organ-and-tissue-donation-and-transplantation>.