

Gwybodaeth Ychwanegol at y Cyfarfod Llawn Information Further to Plenary

Cyhoeddir ymatebion yn yr iaith y'u darparwyd, gyda chyfieithiad Saesneg o ymatebion yn y Gymraeg.

Responses are published in the language in which they are provided, with a translation into English of responses provided in Welsh.

**Gwybodaeth ychwanegol at y Bil Trawsblannu Dynol (Cymru) a gyhoeddwyd gan y Gweinidog Iechyd a Gwasanaethau Cymdeithasol, Mark Drakeford, ar 25 Ebrill 2013
Information further to the Human Transplantation (Wales) Bill issued by the Minister for Health and Social Services, Mark Drakeford, on 25 April 2013**

At/To David Melding:

Human Transplantation (Wales) Bill – Constitutional and Legislative Affairs Committee Report

During the debate on 16 April, I committed to write to you to set out the Government's position on the three recommendations of your Committee which we will not pursue. For those specific recommendations, we believe that the Bill is already clear and so amendments are not necessary.

However, the Committee will wish to note the following points:

***CLAC Recommendation 1:** We recommend that the Minister tables an amendment to make the preparation of a communication plan a statutory requirement of the Bill.*

I am of the view that there is no need to amend the Bill to make this a specific requirement since the Bill already places Welsh Ministers under a duty to promote transplantation and to inform the public about deemed consent. It would be an unnecessary level of detail for a Bill to also contain a statutory requirement for a communication plan as this is already inherent in the overall duty imposed on Ministers. However, I can confirm that a communication plan will be prepared and published.

***CLAC Recommendation 3:** We recommend that the Minister considers tabling an amendment to make it clear that section 8 of the Bill applies to living adults only.*

Section 8 of the Bill applies to living adults only and this is already made clear in the heading to the section. This is also explained in the Explanatory Notes to the Bill. Therefore no further amendment is considered necessary. In including the word "living" in the heading, the Bill goes further than the equivalent provision in section 6 of the Human Tissue Act 2004 (the 2004 Act), which does not contain the word.

***CLAC Recommendation 10:** We recommend that the Minister clarifies, preferably by amendment, the provisions of the Bill that are subject to section 17(2) and those that are subject section 27(4) of the Human Tissue Act 2004 including if necessary, whether they apply in specific circumstances only.*

It is not considered necessary to amend the Bill.

Section 17(2) lists the qualifying relationship for the purposes of the Bill in both deemed and express consent situations – that is, those persons included in the list. Therefore section 17(2) is applicable to sections 4, 5 and 6 of the Bill.

Section 17(4) provides that the Welsh Ministers may amend, by Order, the list of those who are included as qualifying relations for the purpose of the Bill, both in express and deemed consent cases.

Section 27(4) of the 2004 Act lists the order in which the qualifying relationships are ranked in express consent cases, both for the purposes of that Act and sections 5 and 6 of the Bill.

Section 14(3)(f) provides the Welsh Ministers with the power to amend, by Order, the ranking of the qualifying relations listed in section 27(4) of the 2004 Act in relation to the giving of express consent to organ and tissue donation in Wales under sections 5 and 6 of the Bill.

Again, I thank your Committee for the work they have done and I hope these explanations will assist you in understanding why I did not accept these particular recommendations. I am placing a copy of this letter in the Library.