



THE SCOTTISH OFFICE

National Health Service in Scotland Management Executive

**NHS
MEL(1994)114**

St Andrew's House
Edinburgh EH1 3DG

Dear Colleague

ELECTIVE VENTILATION

Summary

1. The great majority of organ donors are people who have been admitted to intensive therapy units for life-saving treatment but who die there whilst receiving artificial ventilation. Only when brain-stem death has been confirmed is the question of organ donation considered.
2. However there have been some instances of the identification as potential organ donors of patients on general wards suffering from, for example, major cerebrovascular accidents who are expected to survive for only a short time. Such patients have been moved to intensive therapy units and ventilated before or as soon as spontaneous respiratory failure occurs to enable organ retrieval to take place.
3. The Department has been asked to clarify the legal basis of this practice. Our legal advice indicates that in cases where the clinician's intention in referring the patient for ventilation is not for the patient's own benefit but is to ensure his or her organs can be retrieved for transplantation, the practice would be unlawful.
4. However, this advice does not alter the general position that where the clinician considers that there remains any possible benefit to the patient from ventilation, it may be lawfully used.
5. There is a severe shortage of organs for transplantation. Clinicians are therefore encouraged to explore all lawful means of increasing the availability of organs for transplantation.

Action

6. Please bring this MEL to the attention of appropriate staff.

Yours sincerely

Patricia Russell

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