Dear Colleague

GUIDANCE ON LEGAL ISSUES RELEVANT TO DONATION FOLLOWING CARDIAC DEATH

In my letter of 3 May 2010 ([SGHD/CMO(2010)11](mailto:)), I drew your attention to the guidance for NHSScotland which the Scottish Government Health Directorates had developed to clarify the legal issues relevant to what was then known as donation following cardiac death but which is now generally referred to as Donation following Circulatory Death (DCD).

I understand that because of a slight discrepancy between the wording in my letter and the wording in the guidance attached to it there has been some confusion over the types of case to which the guidance is intended to apply.

For the purposes of clarification, I should therefore explain that when the letter and guidance describe potential DCD donors as almost invariably lacking ‘the capacity to make their own treatment decisions because they will have had a catastrophic brain injury and are likely to be unconscious’, that is intended to be no more than an example of this type of case. It was not the intention that DCD programmes should have referred to them only those who have sustained a catastrophic brain injury. Because of the continued shortfall of organs for transplantation, we would wish to see all potential donors referred to these programmes, especially where the person had themself expressed a clear wish in favour of donation. I should be grateful if the Clinical Leads for Organ Donation in Scotland in particular could make sure that this clarification is brought to the attention of all relevant members of staff.

Yours sincerely

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