

## Equality Impact Assessment – Results

<p><b>Title of Policy</b></p>	<p>The Human Tissue (Authorisation) (Specified Type A Procedures) (Scotland) Regulations 2020</p>
<p><b>Summary of aims and desired outcomes of Policy</b></p>	<p>The purpose of this policy is to specify medical procedures that are Type A pre-death procedures and authorised under the Human Tissue (Authorisation) (Scotland) Act 2019 ('the 2019 Act').</p> <p>Pre-death procedures are medical procedures carried out on a person for the purpose of increasing the likelihood of successful transplantation of a part of the person's body after the person's death, and which are not for the primary purpose of safeguarding or promoting the physical or mental health of the person.</p> <p>Type A procedures are those medical procedures which Scottish Ministers consider are appropriate to be carried out in accordance with the provisions of the 2019 Act and not requiring any further restrictions or requirements.</p> <p>In line with the overall aim of the 2019 Act which seeks to facilitate, as part of a wider package of measures, an increase in the number of successful organ and tissue donations in Scotland, it is important to ensure that the processes which support donation and transplantation work well and are underpinned by a clear legal framework.</p> <p>By specifying Type A pre-death procedures this will ensure that there is full transparency about what may be involved as part of the deceased donation process.</p>
<p><b>Directorate: Division: team</b></p>	<p>Directorate for Population Health Health Protection Division</p>

	Human Tissue (Authorisation) (Scotland) Act 2019 – Implementation team
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## **Executive Summary**

1. This Equality Impact Assessment (EQIA) was undertaken to assess the impact of specifying medical procedures as Type A pre-death procedures on protected characteristic groups.
2. The EQIA process has identified that specifying medical procedures as Type A pre-death procedures could have some impact on Religion/Belief as a protected characteristic. The EQIA has demonstrated that any impact of specifying procedures that may be deemed to be carried out to facilitate successful transplantation has been directly addressed and mitigated as a result through the statutory framework set out by the 2019 Act, which governs the authorisation and carrying out of specified Type A pre-death procedures. This policy will have no adverse impacts on any other protected characteristics group.
3. The setting out of specified procedures, with a clear and robust framework governing their authorisation and carrying out, will strengthen the protections of a potential donor and increase the overall transparency of the deceased donation process for all.

## **Background**

4. Medical procedures that are specified as Type A pre-death procedures are the medical procedures which are currently routinely completed in an intensive care unit (ICU) setting to facilitate a successful transplantation.
5. When deceased donation is authorised, and subject to a number of safeguards provided by the 2019 Act, specified Type A pre-death procedures may be deemed to be authorised to be carried out on a potential donor.
6. A public consultation was held between 30 October and 11 December 2019 on the proposed content of the Type A regulations, as a specified list of medical procedures.

## **The Scope of the EQIA**

7. Following a public consultation undertaken on the proposed content of the Type A regulations a potential impact on a protected characteristic was identified. This is set out below, including how this impact has been addressed.
8. As part of the approach to the ongoing implementation of the 2019 Act, we have and continue to work with a wide array of stakeholders across the NHS, third sector organisations and religion/belief organisations to help develop our policy and proposals

## **Key Findings**

## *Religion/Belief*

9. It was identified during consultation that for members of the Jewish faith, deeming authorisation for the carrying out of specified Type A pre-death procedures, specifically where that procedure may require moving or excessive touching of a patient, may not be fully compatible with some specific religious requirements for those near death and depending on the individuals circumstances.
10. The 2019 Act took account of the fact that the point at which death occurs can be an important factor in decision making about donation for some people of particular faiths. An individual's religion or beliefs is currently taken into account in the palliative care pathway, of which donation is a part. This will both continue and will be strengthened under provisions in set out in the 2019 Act. The 2019 Act includes specific safeguards about the particular circumstances in which donation can happen.
11. Those working in donation, as part of a statutory duty to inquire, will be required to check with any potential donor's family members about any views the potential donor held on both donation, and the carrying out specified pre-death procedures. This will mean that in all cases specified Type A pre-death procedures may only proceed where the potential donor would not have objected to them being carried out. Specified pre-death procedures will only be carried out after authorisation for both donation and their completion is in place.
12. Furthermore, the statutory framework governing specified Type A pre-death procedures requires that a pre-death procedure (as well as being authorised) must be necessary, not cause more than minimal discomfort and is not likely to harm the person. This statutory framework will be considered by the supervising clinician, responsible for the patient's care.

## **Conclusion**

13. Taking into account the above and, following responses from clinical stakeholders to the Type A consultation, the regulation has been drafted to ensure that authorisation for specified Type A procedures will not permit the movement of a patient from their location, to carry out specified procedures.