

This response was submitted to the consultation held by the Nuffield Council on Bioethics on Give and take? Human bodies in medicine and research between April 2010 and July 2010. The views expressed are solely those of the respondent(s) and not those of the Council.

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Where There's a Will
or
How to give away the important bits
when you don't want to keep them.

The living know that they shall die
but the dead know not anything,
neither is there anymore reward,
for the memory of them is forgotten.

Ecclesiastes Ch.9 v.5 AV

Gloomy ain't it.

I came across the sentence 'I desire that my body may be used after my death for the treatment of others' years ago. I can't remember when precisely I came by it, although I know that it was on the back of what was then called a 'Kidney Donor Card'. The idea struck me then, as it does now, that it is a good example of that facet of human nature called altruism; the ability to look outwards and upwards to the needs of others and offer something for the common good, for the benefit of someone unknown and their family without thought of reward, praise, or even acknowledgement.

I prepare my draft wills with that sentence in them. It doesn't mean anything. When I wrote to Elizabeth Despard Ward, who dreamed up the idea of the 'Donor Card', about my idea she pointed out that the medics need to know about a persons' wishes within an hour after a person is brain stem dead, and not ten days later when they are buried, and we are all having tea and sandwiches. But, as I explained in my reply, the essence of the exercise is not the will, but rather my clients' expression of wishes at the time when it is made.

It is all about a conversation that I might have, when my client is fit, alive and well, and talking in sensible and objective terms, about dying, giving and donating. And that is, perhaps not surprisingly, a conversation that does not always take place, or with the persons who need to give the right answers to difficult questions, when in times of great distress such questions are asked of them. In

this age of organ recycling (nothing to do with Bach or G.F.Handel) and transplantation it is an important and sensitive issue.

It is not a conversation that members of the medical profession like to have (much). The implication, within a doctor's surgery, is that the patient is on the way out and that does not, apparently, go down a bundle. It remains the naive belief of Joe Public that doctors always get you better. Talk of organ donation does not inspire confidence.

It is not an easy conversation in the Accident and Emergency Department of a hospital, perhaps many miles away from home, to which relatives have been summoned because their worst nightmare about someone very close has become a reality. The medics are very, very sympathetic, but objective, and if there is a positive answer to the question, then they need to know it because useful time is ebbing away. And probably all the relative(s) seek is a clear expression of their loved ones' wishes somewhere with which, like the Oracle at Delphi, they could consult in order to give the right answer. (There is; it is a computer run by UKTeSSA)

In my office it is something about which clients can laugh. It is a conversation that fits in so neatly with all the other things about which we talk (the client who did want her ashes cast at sea, but not the North Sea because it was too cold; the client whose especial concern was his complete collection of Giles Annuals) that it comes naturally, and is dealt with so easily and so successfully. From my point of view it is straight forward because I am able to talk of the need for organ donations, of the existence of the Donor Computer Register, the ease with which a name can be added to it, and the need for the nearest and dearest to have a conversation about it, (and that is done anyway when it is a couple with their instructions). There is no need to get technical. All you need to know is that organ donation only ever applies to accident victims, and not to those who pass away by reason of a neurological or physiological illness. If my client wants more (gory) detail then I direct them to the people who run the register.

The most gratifying aspect of these discussions is the number of people who haven't thought of organ donation, and are prompted to do something, and an even larger number of clients who thank me for the suggestion and agree to go on the register in order to give a useful, perhaps vital, but not final expression of their wishes. And it doesn't cost. UKTeSSA will provide you with umpteen freepost declarations that are simple to fill in need only a signature and can go off in that nights post.

Here we can do something very positive without fear of recrimination or litigation. You must be aware that there is a desperate need for donors to express their wishes about organ donation. Solicitors can do a great deal of good not only by

raising public awareness of the issue by having the 'dying, giving and donating' conversation, but also by helping to build up substantially the number of names on the register. The register needs to have on it about three and a half million names to be effective and that needs to be a running total.

There won't be any immediate plaudits; there may not be any discernable or measurable results beyond the increase in numbers on the register, because we will never be able to correlate any particular client with any particular transplant, unless relatives waive the otherwise strict anonymity rules. But if we as a profession can increase public awareness significantly and the number of names on the register then maybe for once we might get as a profession the thanks of Joe Public rather than condemnation. And, in addition our clients might, from on high, and long after their will is granted probate, have the satisfaction of proving the gloomy old (biblical) prophet who wrote the proverb wrong. Their memory is not forgotten by someone still alive, who, thanks to a prompt by a solicitor many years previously, received a life-extending organ from the solicitors' lately deceased client.

Where do we go from here? Well the short answer is that if you want to give it a go then get on with it. You don't need me to explain much more. Ring the people who run the organ donation register (UKTeSSA: the United Kingdom Transplant Support Service Authority) on 01179 757575 and asked them to send you loads of registration cards. They won't cost you.

Next stick into your draft will on your computer the following sequence of instructions; -

(1) I revoke all previous wills and codicils made by me.

(2) I desire that any part of my body may be used for the treatment of others.

or

(2) I desire that after my death any part or parts of my body that may be of use for therapeutic purposes (including corneal grafting and organ transplantation) may be removed with a view to their use for such purposes.

(3) I desire that thereafter my body be cremated / buried.

Take your clients instructions but don't bother mentioning this lot then. Send out the draft will with these clauses in it and have the conversation when you discuss the draft will. By then your client has seen it and is thinking "What's all this about' Then you have the conversation and if your client likes the idea fill in the registration form which can be dropped in the post after it has been signed. If you client is against it then delete the clause and move on.

What can we do collectively? 'Make a Will Week" has become a hardy annual these past few years. I am sure that the marketing wallahs who run it and the public relations officers of UKTeSSA can put their heads together to make good use of this aspect of wills. After all countless numbers of charities do their best to persuade us to include them in our clients wills so why should we do other than market this good cause As the next 'M a W.W.' is almost a year away perhaps they can dream up something for the benefit of those who want to participate.

But the most important point is not the image; it's doing something significant to help what is undoubtedly a life saving and life enhancing aspect of modern medicine. And if we can demonstrate our interest and show that we can play a part in it then I believe that we will all get the pat on the back that we then deserve.

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