

**Views of the Human Organ Transplant Board
on the concern to set a statutory time frame for
considering applications on living non-related transplants**

The Human Organ Transplant Board (the Board) has been informed of the concern that there should be a statutory time frame within which the Board must determine whether it will give approval in relation to living non-related transplants. The Board appreciates the concern that such decisions may need to be made within a relatively short period of time, but does not consider that a statutory time frame would be practicable or desirable. A time frame could defeat the objective of enabling non-related transplants to be available. The Board's views and considerations are set out in detail below.

The application procedures and the Board's procedures

2. Taking into account the possibility that some urgent applications for transplant may be submitted to the Board, the Board has set out in its Administrative Guidelines the procedures of submitting such applications to ensure that they would be processed timely. As stated in paragraph 12 of the Guidelines, the applicant (i.e. the person who has clinical responsibility for the donor), after he has sent in an application by fax to the Board, is urged to confirm with the Secretariat that it has been received so that the application can be attended to as soon as possible, particularly in urgent cases. From practical experience, there are sometimes pre-application enquiries made by potential applicants to the Secretariat. During such enquiries, the Secretariat may be given information about the potential application or if necessary may have to clarify with the enquirer and explain to him the conditions as required by the Human Organ Transplant Ordinance (the Ordinance) for the Board to give approval. There have been instances where after such enquiries, the person with the clinical responsibility for the donor has decided not to make an application. for one reason or another. For example, the potential applicant, after clarification, has realised that there were no grounds for submitting the application, or because of new development, the need for submitting the application no longer existed.

3. Upon receipt of the application, the Secretariat checks the papers to ensure that evidence has been provided to support the fulfilment of the conditions in section 5(4) and (5) of the Ordinance. If there appears to be any incomplete information this will be clarified immediately with the applicant. Simultaneously members will be contacted and notified that a potential case is at hand. The application documents will be circulated by fax to all members for consideration. Depending on individual cases, the Board may convene a meeting to discuss the application. The Board may also contact the applicant to ascertain further information to facilitate its consideration. Once the

Board's decision is available, the Secretariat will inform the applicant the result by telephone first followed by written confirmation by fax.

Views on statutory time frame

4. The Board considers that it is not practicable and feasible to set a time frame for making a decision on such applications because of the following reasons.

- (a) The Board already bears in mind that time urgency is of great importance, particularly in urgent cases.
- (b) Many of the organ transplants are planned well in advance, for example, in cases of kidney transplants. Such applications allow more time for the Board to consider the application carefully and thoroughly.
- (c) When an application is received or an enquiry is made, the Secretariat will ascertain the scheduled or estimated date and time of the operation. The Board will bear this information in mind when considering the case and the individual members will be notified as soon as possible of a potential case so as to enable them to adjust their own time schedule to enable proper consideration to be made as soon as possible.
- (d) There may be situations where the information provided is not adequate to satisfy the Board that the requirements under section 5(4) and (5) have been complied with. The Board may need clarification of certain matters or consider that other supporting information may be available. The Board recognises that the applicant (and his team) who has been dealing with the case for a certain period of time may have more knowledge about such matters as the relationship between the donor and the recipient than has been included in the information presented to the Board; the Board may ask for such information to assist in the consideration of the application. If the Board were to be required to operate under a strict time limit to make its decision, it may not be possible to explore areas and obtain evidence that would otherwise satisfy the Board that the conditions had been met. An artificial time limit and a rushed decision may mean that an inappropriate decision is made.
- (e) The Board considers that time limits should only be set if they would assist in ensuring that the aims of the Ordinance were carried out. Every case is individual. Some applications will be relatively straightforward and it will be possible for a decision to be made

within a short period of time. Others may need more time in order that full and proper consideration can be given to the application. If the Board were not able to reach its decision within the stipulated time period, it would appear that in order to comply with the spirit of the Ordinance, the application would have to be refused.

Human Organ Transplant Board
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