

To NHS Chief Executives, NHS Medical Directors, NHS Finance Directors and Recipient Transplant Co-ordinators



Dear Colleague

POLICY ON REIMBURSEMENT OF LIVING SOLID ORGAN DONOR EXPENSES BY NHS BOARDS IN SCOTLAND

Summary

To raise awareness of a revised policy on the payment of expenses to living donors of solid organs by NHS Boards in Scotland.

Background

1. This revised policy updates and supersedes the guidance on payment of expenses to living donors of solid organs by NHS Boards in Scotland contained in [NHS HDL \(2004\) 51](#). It has been prepared by the Scottish Government with the help of HM Revenue and Customs.
2. It seeks to inform healthcare professionals in Scotland about the principles and processes that underpin financial reimbursement for living donors of solid organs and is compatible with practice in the other UK countries.
3. The Human Tissue (Scotland) Act 2006 forbids the offer of payment or any inducement for the supply of a human organ (Section 20). However it does not prohibit the reimbursement of reasonable expenses to a living donor if they are directly attributable to his/her donation of an organ. NHS Boards are permitted to make such payments and should do so if the transplant is permitted under the Human Tissue (Scotland) Act 2006.
4. NHS National Services Division, who commission all solid organ transplant services in Scotland on behalf of the Scottish Government, has produced [NHS Scotland Financial Operating Procedure for Reimbursement of Living Solid Organ Donor Expenses](#), which underpins this policy.
5. Any payment to living donors should ensure that, within reason, the donor is no worse off as a result of the donation but they must not gain any financial advantage. Payments will be

DL (2016) 17

17 August 2016

Addresses

For action

NHS Chief Executives

For information

NHS Medical Directors
NHS Finance Directors
Recipient Transplant
Co-ordinators

Enquiries to:

Pamela Niven, OBE
Programme Manager
for Organ Donation and
Transplantation
Scottish Government

Tel: 0131-244-2343

E-mail:

Pamela.niven@gov.scot

made by the national transplant units in order to ensure equity of access to funding across Scotland.

Action

6. Chief Executives are asked to note the revised policy and ensure that relevant staff within their Boards are familiar with this.

Further Information

7. Further information is available from Pamela Niven OBE, Programme Manager for Organ Donation and Transplantation, Scottish Government, who is contactable at:

- Email – Pamela.niven@gov.scot
- Telephone – 0131 244 2343

Yours faithfully

A handwritten signature in black ink that reads "Andrew Scott". The signature is written in a cursive style and is positioned above a short horizontal line.

ANDREW SCOTT
Director of Population Health

POLICY ON REIMBURSEMENT OF LIVING SOLID ORGAN DONOR EXPENSES BY NHS BOARDS IN SCOTLAND

1. Purpose

1.1 This policy, which replaces NHS HDL (2004) 51, has been prepared by the Scottish Government with the help of HM Revenue and Customs. It seeks to inform healthcare professionals in Scotland about the principles and processes that underpin payment of expenses to living donors of solid organs and is compatible with practice in the other UK countries.

1.2 The purpose of this policy is to try to ensure that the financial impact on the living donor is cost neutral. Reimbursement of expenses must be proportionate and fair for the individual and administered in a consistent and timely manner. Best practice must be congruent with the Human Tissue (Scotland) Act 2006.

1.3 NHS National Services Division, who commission all solid organ transplant services in Scotland on behalf of the Scottish Government, has produced a Financial Operating Procedure (*NHS Scotland Financial Operating Procedure for Reimbursement of Living Solid Organ Donor Expenses*) which underpins this policy.

2. Background

2.1 The Human Tissue (Scotland) Act 2006 forbids the offer of payment or any inducement for the supply of a human organ (Section 20). However, it does not prohibit the reimbursement of reasonable expenses to a living donor if they are directly attributable to his/her donation of an organ.

2.2 NHS Boards are permitted to make such payments and should do so if the transplant is permitted under the Human Tissue (Scotland) Act 2006. NHS Boards are not legally obliged to make such payments. However, as renal transplant is the most cost-effective treatment for end stage renal failure, and a living donor transplant may be the only option for a patient in liver failure, payment of any associated donor expenses is justified.

3. Reimbursement

Principles of reimbursement

3.1 Any payments to living donors should ensure that, within reason, the donor is no worse off as a result of the donation, but they must not gain any financial advantage. Any payments in excess of the amount needed to reimburse losses would constitute a payment for the donation and would breach the Human Tissue (Scotland) Act 2006.

3.2 The following points summarise the policy in Scotland (but with a view to being compatible with policies from the other UK countries) for the reimbursement of costs associated with undertaking a living donation. This could either be a directed kidney donation (to a relative, friend or other), or part of the National Living Donor Kidney Sharing Schemes (i.e. paired/pooled donation or non-directed altruistic donation and altruistic donor chains) or living liver donation:

- a) The principle of reimbursement is founded on the premise that there is **no financial incentive or disincentive** in becoming a living donor;
- b) The financial reimbursement will reflect the loss of earnings and other relevant expenses directly attributable to the donation;
- c) The principles of reimbursement will be communicated clearly to the donor in a transparent and consistent manner before donation, as set out in the *NHS Scotland Financial Operating Procedure for Reimbursement of Living Solid Organ Donor Expenses*;
- d) Special arrangements (e.g. retrospective consideration of claims) may need to be considered where donors who are non-resident in the UK are involved, or those that relate to the National Living Donor Kidney Sharing Schemes, if the timeframe prior to donation precludes prospective agreement;
- e) NHS Boards will reimburse donors directly and will make every effort to avoid delayed payment;
- f) Potential donors who are deemed unsuitable to proceed to donation may be eligible to claim for reimbursement of certain expenses such as travel expenses, including parking costs;
- g) NHS Boards may consider additional reimbursement costs on a case by case basis, but only costs which are directly connected with the donation.

3.3 See *NHS Scotland Financial Operating Procedure for Reimbursement of Living Solid Organ Donor Expenses* and associated documentation for further information.

Personal Expenses

3.4 Reimbursement of personal expenses such as transport costs (including parking costs) can be repaid in full on provision of receipts or in the case of e.g. mileage at an agreed rate such as the reserve rate of reimbursement [PCS(AFC)2013/3]. Such payments are legal under the Human Tissue (Scotland) Act 2006 and are not subject to any tax liability.

Loss of Earnings

3.5 Payment for loss of earnings is legal under the Human Tissue (Scotland) Act 2006 but the method of payment and position with respect to any tax liability depends on the employment status of the individual. Key principles and advice relating to loss of earnings and changes to benefits entitlement is provided in paragraphs 11-15. However, if living donors require expert advice or further information, details are available at <https://www.gov.uk/browse/benefits>.

3.6 **Employed Persons** – earnings from their employment are normally subject to tax and national insurance contributions and paid through PAYE. Reimbursement is paid of **net** income and will not be taxable. Some employers may continue to pay basic pay but the donor may lose supplementary pay in the form of commission or tips. Such losses may be reimbursed on provision of suitable proof of average overall earnings. Exceptionally, if the person is on unpaid leave for several weeks they may need to make voluntary payments to make up lost pension contributions to e.g. a stakeholder pension or Class 3 additional voluntary National Insurance contributions for a state pension. Such voluntary contributions can be reimbursed without any tax liability. In view of the short time they are away from work, living donors should not need to make additional National Insurance contributions but if they are unsure they should contact their tax office.

3.7 **Self-employed persons** – will be liable for tax on any money they receive which is not specifically excluded. Reimbursement of loss of earnings is paid on gross income. This will enable the donor to pay tax, National Insurance and pension contributions for the period they were unable to work. Proof of gross income will be required such as a copy of the income and expenses page of their tax return. Although liable for tax, such payments are legal under the Human Tissue (Scotland) Act 2006 as long as there is no overpayment. In the case of very high earners, full reimbursement of lost earnings may not make the transplant cost-effective. In these circumstances reimbursement may be made based on the average national wage.

3.8 **Non-employed persons** – are not liable for tax and would normally only be reimbursed personal expenses. However they might lose benefit if not available for work for several weeks. Such benefit losses can be reimbursed.

3.9 **Retired persons** – are not liable for tax.

Child Tax Credit and Working Tax Credit

3.10 A person's entitlement to Child Tax Credit will not be affected by the fact that (s)he is a living donor. A short absence from work does not usually affect a donor's entitlement to Working Tax Credit, including the child care element, because, assuming the donor plans to return to work as soon as (s)he has recovered, HM Revenue and Customs would not regard the absence as affecting the donor's "usual working hours". When entitlement to either or both of the tax credits is assessed, only taxable income is taken into account. So if donors receive non-taxable income, they are not required to report it to HM Revenue & Customs. Donors who need further information should contact the Tax Credit Helpline on 0345 300 3900.

Travel Expenses

3.11 Any reasonable claim for travel expenses will be considered on an individual basis and documentation to support the claim for these expenses will be required.

3.12 Appropriate travel costs are calculated on the basis of the cheapest and/or most appropriate mode of public transport including any promotional or concessionary fares) available to the patient. Mileage will be at the agreed standard NHS rate.

3.13 If the donor is claiming tax credit, they may claim travelling expenses directly from the NHS Board. Although it is preferable for donors to comply with the process outlined in this document, in cases of financial hardship, reimbursement of travel expenses at the point of need is likely to be more appropriate. However, if expenses are claimed from the NHS Board, the claim cannot be duplicated as part of this process.

Miscellaneous Expenses

3.14 It is possible that a donor may incur additional expenses as a direct result of the donation (for example, additional child care costs, additional employment, accommodation). Claims for reimbursement of these costs will be considered on an individual basis by designated personnel in NHS Boards. Documentation to support the claim for these expenses must be provided by the donor and accompany the application.

3.15 These expenses must be considered reasonable and proportionate. Where possible these should be anticipated prior to donation.