



Proposals for legislation on Organ and Tissue Donation: A Welsh Government White Paper

The Royal College of Surgeons welcomes the opportunity to respond to the organ and tissue donation proposals in this white paper. We support the Welsh Government's ambition to raise the rates of donation and subsequently the availability of live-saving organs and tissues. We do however wish to raise a number of points for consideration in the further development of the proposals.

We are primarily concerned that the evidence base for the proposed move to a 'soft opt-out' is not sufficiently robust, and that the case for changing consent systems has yet to be made – donation rates in Wales are currently at a peak.

The White paper presents a high-level summary of the proposed legislative changes. The College seeks clarity from the Welsh Government on the grey-areas that present themselves, in particular:

- Inclusion/eligibility of individuals. With respect to the options proposed for establishing and maintaining records, the College would suggest that the system explicitly records the wishes of both individuals who do not wish to become organ donors and also those individuals who do wish to donate. Given that the surgeon removing the organs is ultimately responsible for ensuring consent has been obtained appropriately, we seek assurances that the system will be robust with safeguards in place to protect against errors. In particular, the ethical integrity of any proposal to automatically add people to the Organ Donor Register who have not opted out must be questioned. Under these circumstances, can the Welsh Government assure themselves of the competence of every individual added to the register?
- Boundary issues. Postcodes, GP practices and populations served by hospitals span the Welsh-English border. How does the Welsh Government propose to manage these boundary issues? Clear guidance will be required for clinicians so they are aware of their liability when caring for patients to which different consent regimes apply. We have concerns that individual clinicians might inadvertently be legally compromised due to lack of clarity as to which country's legislation applies to a potential donor.

If the legislation for presumed consent is passed, the College recommends thorough consideration of the following:

- Integration with existing UK systems and structures, to avoid costly duplication of effort and minimise potential for error in operating two consent systems.
- Involving the professions at each stage and every stage. The College has a Director of Professional Affairs in Wales who can provide advice and expertise from a clinical perspective, and engage in ongoing discussions on this and other Welsh health matters.
- Robust evaluation of the new system in terms of both process and outcomes, with particular review of patient/relative experience.

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