
Organ Donation (Deemed Consent) Bill 2017-19

House of Lords, Committee Stage
Friday 1 February 2019

About the BMA

The BMA (British Medical Association) is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

The BMA has been lobbying for an organ donation opt-out system for more than 18 years.¹ We are delighted to see recent developments, across the UK, that show important progress is being made on this front.

We urge Peers to support this Bill to create the opportunity for the UK Government to deliver on its commitment to enact a life-saving shift and introduce an opt-out model for organ donation in England by 2020.²

Key points

- **We welcome the Government's pivotal commitment to implement an opt-out model, with safeguards, in England.** Furthermore, we welcome the Prime Minister's continued commitment³ to supporting this Bill, the Organ Donation (Deemed Consent) Bill, as the vehicle to establish this life-saving change in legislation.
- **The BMA has long advocated an opt-out system for organ donation and would like to see it introduced across the UK, without delay.** We believe this model, which has already been implemented in Wales and is being introduced in Scotland, is the best option for the UK to reduce the shortage of organs and save lives.
- **Evidence from Wales, which introduced an opt-out system in 2015, is very encouraging, both in terms of the donation statistics and public and professional support for the new system.**
- **The Bill includes an important safeguard.** The 'soft' opt-out would ensure that the loved ones of a person who has died would have the opportunity to make known any unregistered objection to organ donation that the individual may have had. Thus, any person who had a known objection to organ donation, recorded or otherwise, would not be a donor.
- **The BMA gives its wholehearted support to the Organ Donation (Deemed Consent) Bill.** We urge Peers to support its passage in Parliament so that it gains Royal Assent, enshrining a life-saving shift in law, without delay.

¹ The BMA has a longstanding interest in public policy on organ donation. You can view the timeline of our lobbying on the BMA's website, here: <https://www.bma.org.uk/collective-voice/policy-and-research/ethics/organ-donation>

² Department of Health & Social Care, 'New system of consent for organ and tissue donation announced'. Available at: <https://www.gov.uk/government/news/new-system-of-consent-for-organ-and-tissue-donation-announced>

³ Theresa May speaking at Prime Minister's Question Time (Wednesday 5 September). Available at: <https://hansard.parliament.uk/commons/2018-09-05/debates/3FB14697-57E7-4C9C-9B97-44425C4CBCC7/OralAnswersToQuestions>



Organ Donation: the need for an opt-out system

Under an opt-out system, everyone is presumed to be an organ donor unless they opt out during their lifetime. Crucially, this model provides individuals with exactly the same choice as an opt-in organ donation system (England's current model) – to donate or not to donate; it is simply the default position that changes.

So, why the need for change? Studies show that 80% of people support organ donation 'in principle'⁴ but only 39% of the UK population have registered their wish to donate on the organ donor register. Organs that could have saved lives are buried or cremated – not because the individual didn't want to donate but because they never got around to making their views known.

Doctors would like to see an end to patients dying because of a lack of organs when we know that more can be done. The BMA believes it must be made as easy as possible for individuals' wishes about donation to be respected, whether that is to donate their organs after death or to opt out.

We believe a shift to an opt-out system, supported by publicity and engagement with the public, will save lives.

A 'soft' opt-out

The Organ Donation (Deemed Consent) Bill includes an important safeguard that would ensure the loved ones of a person who has died have the opportunity to make known any unregistered objection to organ donation that the individual may have had.

Under this Bill, any person who had a known objection to organ donation, recorded or otherwise, would not be a donor.

Donation rates: the impact of an opt-out model

The BMA believes that introducing an opt-out model in England would increase donation rates, whilst also respecting the wishes and autonomy of those who donate. In spite of the difficulties of extrapolating from the experiences of other countries, there is increasing evidence from systematic reviews of international data that opt-out is one of a number of factors that is positively associated with higher donation rates.⁵

Although it is too early to be certain about the full impact of the introduction of the opt-out system in Wales, the early signs are positive and provide strong support for this approach. The latest full-year data (for the year 2017/18) showed an increase from 61 to 74 deceased donors, compared with the previous twelve months; and in the first two quarters of 2018/19, there were 44 deceased donors.⁶ NHS Blood and Transplant's latest analysis of cumulative data since 2015 also provides evidence of a statistically significant increase in DBD (donation following brain death) consent rates in Wales compared to England,⁷ demonstrating a positive impact on donation since the legislation for opt-out was introduced.

In addition, we believe this important shift in approach would, over time, promote a more positive attitude towards donation within society, which we would welcome. Research from Wales shows

⁴ Department of Health and Social Care. Consultation on introducing 'opt-out' consent for organ and tissue donation in England, December 2017.

⁵ See, for example, the review conducted by the University of York: Organ Donation Taskforce (2008) *The potential impact of an opt out system for organ donation in the UK. A report from the Organ Donation Taskforce. Supporting information, Annex I*, p.9.

⁶ NHS Blood and Transplant. Organ Donation and Transplantation Activity Data: WALES. Annual data for financial years 2014/15 to 2017/18 and data for 2018/19 - first 2 quarters, October 2018. <https://nhsbt.dbe.blob.core.windows.net/umbraco-assets-corp/12701/nhsbt-wales-summary-report-sep-18.pdf>

⁷ NHS Blood and Transplant, National Organ Donation Committee. Analysis of the effect of Welsh legislation on consent/authorisation rates: Quarter 11 (NODC(19)12). October 2018

strong support for the new system amongst the public (73%)⁸ and health professionals (85%).⁹ It also demonstrates that more people are having discussions with their families about organ donation,¹⁰ making the approach to families easier for all concerned and also making it less likely that families will seek to override their loved one's wish to donate.

Public opinion

There is strong public support for a shift to an opt-out system. In January 2017, the BMA commissioned a public opinion poll in England, Scotland and Northern Ireland. We asked if individuals would support an opt-out system, like that implemented in Wales, being introduced in other parts of the UK. Overall, 65% said that they would support such a shift.

The BMA gives its wholehearted support to the Organ Donation (Deemed Consent) Bill and urges the House of Lords to support its passage through Parliament, without delay.

We have long advocated a 'soft' opt-out system for organ donation and would like to see it implemented across the UK. We believe an opt-out model, as has been implemented in Wales and is being introduced in Scotland, is the best option for the UK to reduce the shortage of organs and save lives.

You can read more about the BMA's work on a soft opt-out system for organ donation on the BMA's website, [here](#). You may also be interested to read the [BMA's report](#) on the subject, '*Building on Progress: Where next for organ donation policy in the UK?*'.

[View the BMA's timeline of lobbying for a soft opt-out model for organ donation](#)

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⁸ Welsh Government. Update to Survey of Public Attitudes to Organ Donation: Key figures from Wave 15, 50/2018. September 2018. www.gov.wales/docs/caecd/research/2018/180906-survey-public-attitudes-organ-donation-waves-15-en.pdf

⁹ Welsh Government (2017) Evaluation of the Human Transplantation (Wales) Act. Available at: <https://gov.wales/statistics-and-research/evaluation-human-transplantation-wales-act/?lang=en>

¹⁰ Welsh Government. Update to Survey of Public Attitudes to Organ Donation: Key figures from Wave 15, 50/2018. September 2018. www.gov.wales/docs/caecd/research/2018/180906-survey-public-attitudes-organ-donation-waves-15-en.pdf; Young V, McHugh S, Glendinning R, Carr-Hill R. Evaluation of the Human Transplantation (Wales) Act: Impact Evaluation Report. Welsh Government. December 2017. www.gov.wales/docs/caecd/research/2017/171130-evaluation-human-transplantation-wales-act-impact-en.pdf