Organ Donation (Deemed Consent) Bill 2017-19

House of Commons, Second Reading
Friday 23 February

About the BMA
The BMA 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.

Key points:
- The BMA has long advocated a ‘soft’ opt-out system for organ donation, as we believe it is the best option for the UK to reduce the shortage of organs and save lives.
- We strongly support the Organ Donation (Deemed Consent) Bill, which would introduce a soft opt-out system for organ donation in England, as has been implemented in Wales and is being introduced in Scotland.
- We urge MPs to attend Friday’s debate and vote in support of the Bill to ensure it passes its second reading.

Organ Donation (Deemed Consent) Bill: a soft opt-out system for organ donation

In spite of major improvements in the organ donation system over the last decade, hundreds of people are still dying every year in the UK whilst waiting for a donated organ. Doctors would like to see an end to patients dying because of a lack of organs when we know that more can be done.

Studies show that 80% of people support organ donation ‘in principle’ but only 36% 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.

We believe it must be made as easy as possible for a person’s wish to donate their organs after death to be realised. A shift to an opt-out system through this Bill, supported by publicity and engagement with the public, will build on the progress that has already been made and save more lives.

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

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A soft opt-out: Involving the family as a safeguard measure
The 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.

A soft opt-out model in practice
Under this Bill, any person who had a known objection to organ donation, recorded or otherwise, would not be a donor:

1. **Following a person’s death, the organ donation opt-out register would be checked** – if the individual had not opted out of donating their organs, the donation team would move to the next stage of deliberation.
   *If the individual had opted out of donating their organs, donation would not proceed.*

2. **Consultation with those close to the patient** – if the individual had not opted out of donation, efforts would be made to determine whether the patient’s loved ones were aware of any unregistered objection, or if they had any convincing evidence that the individual, despite not opting out, did not want to donate. The safeguarding role of family and loved ones in this process would be to ensure that if the individual had held any objection to organ donation, recorded or otherwise, it would be brought to light. The family’s role should be to provide information, rather than to give consent themselves.
   *If those close to the individual demonstrated that there was an unregistered objection to organ donation, donation would not proceed.*

3. **Donation can lawfully proceed** – if there is no evidence, registered or unregistered, that the individual would not have wanted to donate.

The impact on donation rates of a soft opt-out model
In spite of the difficulties of extrapolating from the experiences of other countries, systematic reviews of data have found that opt-out is one of a number of factors that is positively associated with higher donation rates.²

In addition, although it is too early to tell the impact of the introduction of opt-out in Wales, the early signs are positive with the latest data (for the first three quarters of 2017/18)³ showing an increase from 39 to 55 deceased donors, compared with the same period the previous year.⁴

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. Furthermore, we believe this important shift in approach would, over time, promote a more positive attitude towards donation within society, which we would welcome.

Public opinion on a soft opt-out model
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 asking if individuals

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² 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.
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.5

The wider picture: UK developments on organ donation

- **Wales**: In December 2015, Wales became the first country in the UK to introduce a soft opt-out system for organ donation. As mentioned above, although the numbers are small, the latest data are positive and show Wales leading the UK over this period, at 24.3 donors per million population.6 It is also clear that we have not seen the type of public rejection of the system that some people had feared.7
- **Scotland**: Last summer the Scottish Public Health Minister announced that legislation would be forthcoming to implement a soft opt-out model, similar to the Welsh model, in Scotland.
- **England**: Most recently, during her speech at the Conservative Party conference,8 the Prime Minister spoke of the hundreds of people who died last year waiting for an organ transplant, and the need to tackle this by “shifting the balance of presumption in favour of organ donation”. The BMA welcomed this news, and plans to respond to the subsequent Government consultation9 on how best to implement an opt-out model for organ donation in England.

The BMA has been lobbying for an opt-out system for more than 18 years, and we are delighted to see from these developments that important progress is being made. We urge the UK Government to continue this momentum by supporting the Organ Donation (Deemed Consent) Bill, enacting a life-saving shift to an opt-out model for organ donation in England. We urge parliamentarians to attend this debate and support the Bill to ensure it passes its second reading.

As an Association, we have a longstanding interest in public policy on organ donation and transplantation. You can read more about the BMA’s proposed soft opt-out system, as well as our public opinion poll, here on the BMA’s website. 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?’.

For further information, please contact:

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7 Currently around 6% of the Welsh population has opted out of donation, which is the type of figure that would be expected given the results of surveys on wishes about donation.
