

Human Tissue Laws – Response to Issues Paper 51

Prepared by Clinical Training and Evaluation Centre (CTEC) - UWA

As a leading provider of clinical training in Australia, the Clinical Training and Evaluation Centre (CTEC) at The University of Western Australia welcomes the opportunity to reflect on the current human tissue legislative framework.

CTEC is committed to delivering high-quality, ethically grounded surgical and procedural training. Our programs often involve the use of fresh frozen human cadaveric materials—facilitated through the UWA Body Bequest Program—for the education of medical professionals. Accordingly, we are deeply invested in a regulatory environment that supports both ethical integrity and practical effectiveness in the use of human tissue for training purposes.

Here we present some key reflections upon receiving and reading Issues Paper 51 as well as commenting on Priority Reform Areas, as a key stakeholder recognised as a School of Anatomy under the WA Anatomy Act (1930), and with particular focus on “Deceased Donation”.

Key Reflections:

- 1. Support for a Consistent, National Approach**

CTEC supports efforts to harmonise human tissue laws across Australian states and territories. The current patchwork of legislation creates complexity and administrative burden for Schools of Anatomy and national training providers and impedes the efficient, lawful use of tissue across jurisdictions. This is evident in the definition of HTAs (Issues Paper 51, *piv*) – recognising the varying Acts and licences operating within and also between each state and territory.

- 2. The Central Role of Consent and Respect**

We strongly endorse the foundational principle of informed consent and are committed to ensuring that all uses of donated human tissue respect the dignity and wishes of donors and their families. Education and transparency in the consent process remain vital to maintaining public trust.

- 3. Recognition of Educational Use**

Human tissue legislation should explicitly recognise the essential role of tissue-based training in improving healthcare outcomes. Issues Paper 51 recognises that some HTAs were written prior to, or have not been updated, since the advancement of new technologies in the medical and health sector. Surgical education and simulation using human tissue directly enhance practitioner skill and patient safety. Acknowledging this in legislation would provide clarity and assurance for ethically robust, training programs. Furthermore, reform to provide a more comprehensive and transparent framework for the regulation of Schools of Anatomy will help futureproof these programs, ensuring the sustainability of these sectors, without compromising on ethical principles which protect donors from exploitation.

- 4. Need for Proportional Regulation**

While robust safeguards are critical, overly burdensome or unclear regulatory requirements can limit access to valuable training materials. CTEC encourages a

balanced approach that maintains high ethical standards while enabling the continued delivery of innovative and effective training. We support the recommendations in Issues Paper 51 (31-35 and 70-71). We suggest that the ALRC expand on this further by considering the expansion of the definition of “educational purposes” to capture post-graduate education for health professionals, allowing for more inclusivity of educational bodies/persons – not just “medical students”. This might include: medical practitioners (as defined by HTAs) but also allied professionals such as dentists, dental surgeons, podiatrists, podiatric surgeons, nurses and nurse practitioners as approved technical staff, retrieval technicians or paramedics.

5. **Future-Proofing the Framework**

Advances in regenerative medicine, biobanking, and minimally invasive techniques require adaptable legal frameworks (as demonstrated by the inclusion of Processed Donor Human Milk in WA (passed 2022)). The review of human tissue laws presents an important opportunity to ensure regulations keep pace with evolving medical education and research needs. Anatomy Acts and HTAs in WA fail to clearly recognise or isolate Schools of Anatomy as education providers beyond tertiary education. The ALRC might further consider that medical health professionals in practice are dedicated and committed to ongoing professional development and this is often mandated by oversight by national regulatory bodies including (but not limited) to RACS, RACGP, ACCRM etc. These bodies expect a level of continued education and Schools of Anatomy are aptly positioned to meet this need.

6. **Support for increased Access to human tissues**

Further to the above considerations to further future proof the framework – We agree with the suggestion to “facilitate changes that may make it easier to identify people who could become donors”. In particular the recent passing of VAD legislation in all states and territories (excluding NT), and its involvement with Palliative Care Centres may present an opportunity for public engagement, awareness and destigmatisation. This is directly relevant to Section 72 of the Issues Paper.

Conclusion

CTEC affirms the importance of human tissue laws that are clear, consistent, and fit for purpose. As an organisation dedicated to excellence in continuing clinical training, we look forward to contributing to a system that honours donors, supports education, and ultimately improves patient care across Australia

Ensuring Informed Understanding of Human Tissue Use After Death

We believe that **clear, respectful communication** about how donated human tissue will be used after death is fundamental to maintaining ethical standards and public trust.

We recognise that **whole-body and tissue donation** for medical training is a profoundly generous act. It is essential that potential donors—and their families—are provided with **comprehensive, understandable information** about:

- The types of educational and surgical training activities their donation may support.
- How dignity and respect are maintained throughout all processes.
- The handling, storage, and final disposition of tissue.
- Any associated legal or institutional governance mechanisms.

We advocate for a **standardised, national approach** to donor information materials and consent processes. This ensures that individuals can make truly **informed decisions** about donation, and that their wishes are clearly understood and respected by institutions using the tissue.

CTEC remains committed to upholding the **highest standards of ethical practice**, transparency, and respect in all programs involving human tissue.

Privacy Laws and Donor Medical Records (With Consent)

At CTEC, we are committed to upholding the privacy and dignity of individuals who generously donate their bodies or tissue for medical training purposes. We acknowledge that even when consent is given, the handling of donor medical records must comply with **Australian privacy laws and ethical standards**. Below we consider some points related to sections 76-78.

Key Principles Governing Donor Privacy:

1. Consent Does Not Remove Privacy Obligations

Even where a donor (or next of kin) consents to tissue use, their medical records remain protected under the **Privacy Act 1988 (Cth)** and relevant state legislation. Consent to donate does not equate to unrestricted access or disclosure of personal medical information.

2. Limitations of Self Reporting and promoting Purpose- Specific Use

Currently in WA donor surgical and medical history is attained through either the volunteering of information (verbal or written) from donors or on second hand account from next of kin following the death of the donor. Subject to the personal investment of the donor, quality of familial relationships, the length of time on the living register, or in the case of rapid degenerative bodily decline, information shared with programs can be contradictory, varying, incomplete or absent. This presents a complication in the determination of how a donor may be successfully managed to achieve maximum benefit of such a generous gift. As an example: donors may overlook caesarean section as a “major surgery” thereby not listing it, or a son reporting the history of a mother may not know whether she has or has not had a hysterectomy. Similarly, a donor with a long history of peripheral vascular disease or Type II Diabetes may not be a suitable candidate for embalming. Knowledge of these conditions/occurrences with consent would alleviate both the administrative and emotional burden placed on programs and families when trying to ascertain pertinent details that may impact a donor’s eligibility to a program. We propose that with consent, medical and/or surgical records be accessible for the appropriate “triage” or donors into programs and assessing how best to maximise their time and utilisation at Schools of Anatomy.

Donor medical records if accessed or shared only **for the specific, consented purpose**—such as assessing tissue suitability for surgical training or understanding relevant anatomical conditions. Use beyond this must be separately consented to or fall within legal exemptions.

3. De-identification Where Possible

Wherever practical, CTEC seeks to use **de-identified** all donor information during

training activities and even in record keeping. Donor information pertaining to identity and health/medical information gleaned at time of death is strictly held by UWA Body Bequest Program. This certainly minimises privacy risk but importantly still informs educators allowing the provision of context for clinical relevance.

4. **Access Control and Secure Handling**

Access to identifiable donor information is strictly limited to authorised personnel.

Robust protocols for storing, accessing, and disposing of medical records, in compliance with national privacy principles and UWA governance policies.

5. **Transparency with Donors and Families**

Donors and their families should be clearly informed about what medical information may be accessed, by whom, for what purpose, and for how long it will be stored.

Transparency is essential to maintaining **trust and ethical integrity**.

Removing Unnecessary Barriers to Donation Systems

CTEC recognises the vital role that **body and tissue donation programs** play in advancing medical education, surgical training, research and ultimately, patient care. While rigorous ethical and legal safeguards are essential, we believe it is equally important to **identify and remove unnecessary barriers** that limit the effective operation of these donation systems.

Key Considerations:

1. **Streamlining Consent and Documentation Processes**

Complex, inconsistent, or unclear consent procedures can discourage potential donors and complicate administrative processes for institutions. We support **simplified, nationally consistent consent frameworks** that maintain ethical standards without creating confusion or delay.

2. **National Consistency in Legislation**

The current variation in human tissue laws between Australian states and territories makes it difficult to implement cohesive, cross-jurisdictional training programs. We advocate for a more **uniform national approach**, especially for institutions like CTEC that operate in collaboration with national partners.

3. **Reducing Administrative Burden on Education Providers**

Excessive regulatory or reporting requirements—especially those not proportionate to the risk or scale of activity—can divert resources away from program delivery.

Regulation should be **fit-for-purpose and proportionate**, ensuring safety and ethics without unnecessarily restricting access to donated tissue.

4. **Improving Public Awareness and Confidence**

Misinformation or lack of understanding about the donation process is a key barrier.

Clear, accessible public education materials are needed to promote donation and reinforce confidence in how donations are used and safeguarded.

Conclusion

CTEC supports a regulatory framework that is **ethical, transparent, and practical**. Removing unnecessary barriers allows donation systems to function more effectively, **honours the intentions of donors**, and enables health professionals to receive the best possible training—directly benefitting patient outcomes across Australia.

Respecting Individual Donation Decisions and Reforming Consent Models

CTEC supports a donation system that honours the autonomy and generosity of individuals who choose to donate their body or tissue for medical education and training after death. We believe that the current practice of allowing the next of kin to override a person's legally valid donation decision can undermine public trust and discourage future donors.

Current Challenge

In several Australian states, including Western Australia, the **Human Tissue Act** does not require that the wishes of the next of kin take precedence over the deceased's documented consent. However, in practice, donation programs often **defer to family wishes**—even when there is clear, prior consent. This results in missed opportunities to honour donor intent and significantly reduces the availability of tissue for critical training and research.

CTEC's Position

- **Uphold Donor Autonomy**
CTEC believes the Human Tissue Act should be amended to **explicitly recognise and uphold the legally valid consent** given by individuals during their lifetime. A clear legal mandate would empower donation programs to follow through with a donor's wishes, while still engaging families respectfully.
- **Move Towards an Opt-Out System**
CTEC supports national consideration of an **opt-out (presumed consent)** model (suggested in Section 72), where individuals are presumed to have consented to donation unless they have formally opted out. This approach, used in several international jurisdictions, has been shown to **increase donation rates** while still allowing families to be involved in the process.
- **Reduce Confusion and Inconsistency**
Current inconsistencies between legal provisions and operational practice create uncertainty for donors, families, and institutions. Clear, nationally harmonised legislation that prioritises **informed individual consent** would reduce confusion and better support donation systems.
- **Strengthen Public Awareness and Trust**
Any change in consent models must be accompanied by **comprehensive public education**, so individuals clearly understand their rights and options, and families are prepared to support those decisions.

Conclusion

To honour the wishes of those who make the generous decision to donate, and to ensure medical education can continue to benefit from this selfless act, the Human Tissue Act should be reformed to **uphold individual consent** and support a **more robust, consistent, and ethical donation system**—potentially through an opt-out model.

Final Remark on Section 98 “Issues we are unlikely to focus on”:

There currently seems to be a national move toward the discontinuation or, removal and/or disposal/repatriation of human remains historically acquired through unethical means – specifically the exportation of remains from South Asia known generally as the Indian Bone Trade and was operative as late as 1985 when India banned the exportation of remains. Whilst the ALRC may not directly seek to address the extent of First Nations Remains, we argue consideration must be applied to the regulation for return/disposal of publicly held tissues in medical offices and private collections. Owners of these remains are now reaching end of life and their historical, professional or educational link with Schools of Anatomy are seeing them (or family members) return these unethically sourced remains to universities. Whilst this may not be strictly applicable to this Human Tissue Law Review and focus of Issues Paper 51 is to provide clarity, maintain public trust and safeguard consent and ethical standards, it must be noted that there are many publicly held human remains, that were unethically sourced, with no guiding or governing body to mandate appropriate, safe and private (penalty free) return. Nor is there any record keeping responsibility, or directive for ensuring providence of these remains by institutions receiving them.

Consideration should further address:

1. Providing public directives to return remains to an approved facility (Coroner, Police or School of Anatomy as determined by appropriate governing body)
 1. Possible conflict for handing to Coroner or state police creating forensic confusion or waste of resources in these sectors?
 2. Public directives should also forbid the disposal, handover or gifting to any persons/bodies not approved by established governing body (HTAs?) – this would in theory be in breach of State HTA’s (see Table 2, Coman et al, 2022).
 3. Provide publicly accessible list of “approved drop off centres” – not all Universities are equipped to accept publicly held remains (lack of museum, technical experience, staff or space), or lack the resources to prove providence.
2. Exemptions (penalty free) for public altruistic hand in of private collections.+ Amnesty
3. Medical schools (Schools of Anatomy) enacted and promoted the purchasing of these remains- should they be allowed to remain at schools in educational capacities or are Universities required to facilitate disposition – How is the cost managed for these institutions?
4. Exemptions for Schools of Anatomy to continue to manage and maintain collections. Historical, forensic, and anthropological legacy/importance of these remains represent an anatomical “demographic snapshot” of South Asian peoples at this time.
5. For facilities, bodies or programs that choose to ethically dispose of, return or otherwise retire their collections – government financial support to achieve these goals.
6. Support or funding for forensic identification of returned remains. As well as support for ethical skeletisation programs (as launched by University of Queensland) for institutions looking to ethically and with consent create new bone catalogues.

7. The Australian Human Tissue Laws, whilst pertinent and of chief concern to all Australians and Australian Sectors directly involved in the receipt/removal of human tissues during life after death, should also consider the handling, care of and ethical management of these persons wrongly exhumed, killed and profited from, now residing in Australian Schools of Anatomy and in private medical practices/offices.

Coman, J., Craig, S.S. and Kelly, A.-M. (2022), Skeletons in the closet: time to give human bones acquired by health practitioners for educational purposes the respect they deserve. Med J Aust, 216: 392-396. <https://doi.org/10.5694/mja2.51477>

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