



Review of Human Tissue Laws Discussion Paper

What is this Inquiry about?

The ALRC is reviewing Australia's human tissue laws. These laws say how human cells, tissue, and organs can be donated and used in Australia.



- Human organs are parts inside the body like kidneys, livers, hearts and lungs.
- Human tissue can include organs and other bodily substances like blood and bone marrow.

Why does this Inquiry matter for First Nations people?

Some human tissue laws may be working well for First Nations people. Other human tissue laws may not be working so well for First Nations people:

- **Kidney disease and transplants:** Many First Nations people suffer from kidney disease. A kidney transplant could help them live a better life without needing dialysis, but they are less likely to be put on a waiting list for a kidney transplant compared to non-Indigenous patients.
- **Death and next of kin:** If a person dies, their family members or 'next of kin' might consent on their behalf to organ donation; or their family members could explain that they don't think the person would have wanted to donate an organ. How some human tissue laws define 'next of kin' does not recognise some relationships that can be important for First Nations people.
- **Sharing information:** Some human tissue laws put limits on how information is shared about people who have donated organs or received organ donations. This might stop First Nations communities sharing stories which could lead to a better understanding of what organ and other tissue donation involves.
- **More data and experiences:** The National Indigenous Kidney Transplantation Taskforce (NIKTT) has collected useful data about barriers to accessing kidney donation for First Nations people. Less information is known about how easy or hard it is for First Nations people to access other kinds of organ donation.

How does our Discussion Paper talk about these issues?

- **Promoting equity:** Our Discussion Paper talks about the barriers that can make it hard for First Nations people to get equal access to kidneys and other human tissue. The biggest barriers seem to be problems that are not in human tissue laws. Instead, they are things that can make it hard to get all kinds of health care. Things like not having enough doctors or nurses who have First Nations backgrounds, or who understand what life is like for First Nations people. Or not having doctors or nurses who work on Country or nearby. In our Discussion Paper, we say that promoting more equal access to human tissue should be an aim of new human tissue laws. We

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also ask questions about if there are barriers to equality in human tissue laws that we have not identified but that new laws should remove.

- **Changing the definition of next of kin:** In our Discussion Paper, we suggest replacing the role of 'next of kin' with an 'authorised decision-maker'. This could be a person who Aboriginal or other customary law or tradition says is the right person to make decisions about organ donation if a person has died.
- **Sharing stories:** Our Discussion Paper suggests how to change human tissue laws so that people can share their stories and have conversations about organ donation, if they want to.
- **Returning stolen remains:** Our Discussion Paper talks about collections of human remains that are stored and displayed in museums and universities. Some of these remains may have been stolen from First Nations communities, causing deep and lasting harms. Return of these remains is an important part of reconciliation which is supported by the Australian Government. We are considering if there should also be a licensing system to make sure collections of human remains are managed ethically, and in a way that supports the return of First Nations ancestral remains.

We are asking for submissions in response to our Discussion Paper. These can be uploaded to our website, or you can contact us if you would like to tell us what you think in another way.

We are asking for submissions up until 23 January 2026, but if you need more time, you can let us know.

Who is the ALRC?

The Australian Law Reform Commission is an independent statutory body. We conduct inquiries and make recommendations to the Australian Government about how to reform the law.

This Inquiry is led by **Commissioner Dr Maeghan Toews**, and the **ALRC President, Justice Mordy Bromberg**.

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