

The forthcoming report from the Australian Law Reform Commission on medical tissue and organ donation rules will no doubt revisit familiar themes: increasing donation rates, improving hospital processes and encouraging Australians to register their wishes. All worthy goals. Yet one subtle but important issue deserves attention.

In my eighties, I recently removed myself from the official donor register — not because I oppose organ donation. On the contrary, I am entirely willing for my organs to be used after my death. My objection is to the current practice that can still place families in the position of negotiating with medical authorities, even when a clear personal decision has been made.

At a moment of grief and shock, relatives should not be asked to confirm, reinterpret or effectively arbitrate the wishes of the deceased. It is an unnecessary and unfair burden. A properly recorded personal consent ought to be sufficient, and respected without hesitation or emotional bargaining at the bedside.

Australians are often urged to “have the conversation” with family members. That is sensible advice. But the system itself should also be designed so that families are not forced into the role of gatekeepers for a decision that properly belongs to the individual.

If the new recommendations are serious about both dignity and increasing donation, they should ensure one simple principle: when a person has clearly given consent, the system should honour it — and spare families from a negotiation they should never have to conduct.

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