AUSTRALIAN GOVERNMENT
DEPARTMENT OF HEALTH, DISABILITY AND AGEING

COMMONWEALTH POLICY

Sanctity of Life in Organ Recovery

National donor-protection standard for all Commonwealth-funded donation, retrieval and public hospitals services

Document	CP-2026-OD-01	Status	Commonwealth model policy
Issued for	14 September 2026	**Applies to**	Cth entities, OTA, NHRA services

This is a Commonwealth policy. It is issued for adoption by the Minister for Health, Disability and Ageing as a direction to the Department, the Organ and Tissue Authority, and as a condition of Commonwealth payments under the National Health Reform Agreement 2026–31 Addendum and DonateLife program funding. It is not a State policy and does not wait on eight Human Tissue Acts.

1. Constitutional and funding basis

The Commonwealth does not rewrite the legal definition of death. That remains in State and Territory statutes. The Commonwealth does, under this Policy, attach a national operational standard to every dollar it spends on donation and on public hospital activity in which donation is contemplated. The levers are:

- the Australian Organ and Tissue Donation and Transplantation Authority Act 2008, including section 57 policies of the Authority;
- conditions on grants and program funding to DonateLife Agencies;
- conditions of Commonwealth public hospital funding under the National Health Reform Agreement 2026–31 Addendum;
- Commonwealth facilities and contractors, including Department of Veterans' Affairs purchased care where donation arises.

2. Policy statement

It is the policy of the Commonwealth that no organ or tissue is to be recovered, in a service funded in whole or in part by the Commonwealth, from a person unless death has first been determined by a registered medical practitioner independent of the DonateLife Agency, in accordance with the law of the relevant jurisdiction and the ANZICS Statement on Death and Organ Donation.

If any person present reports an indication of life, a change in neurological status, or a reasonable doubt that death has been properly determined, all recovery must stop at once. It must not resume until an independent hospital medical practitioner records that donation remains lawful. Default is stop. The hospital, not DonateLife, resolves disagreement.

A DonateLife registration is an expression of wish. It is not Commonwealth authority to treat a living person as dead.

3. Who this Policy binds

- The Department of Health, Disability and Ageing.
- The Organ and Tissue Authority and its CEO.
- Every DonateLife Agency that receives Commonwealth money, staff or other support.
- Every public hospital service for which the Commonwealth pays an NHRA contribution, to the extent donation or retrieval is contemplated in that service.
- Retrieval teams and contractors paid from Commonwealth donation program funds.

4. National donor-protection standard

The standard is set out in full in the companion Commonwealth Bill. In summary:

Dead donor rule. Recovery only after independent determination of death. Recovery must not cause death.

Indication of life. Includes spontaneous movement; vocalisation; purposeful or reflexive response; eye opening or tracking; unexplained tears; withdrawal from pain; over-breathing a ventilator; following a command including blinking on request; resistance to a procedure; or any other sign of awareness, distress or improving neurological function.

Pause. Anyone present may call it. All recovery, preservation, incision, cannulation and perfusion stop. The person returns to the treating team. Next of kin are told. A written report is completed.

DCDD. No recovery until five minutes of absent arterial pulsatility (or electrical asystole without an arterial line), confirmed by clinical examination, consistent with ANZICS. A person who follows commands is not a donor at that time.

Roles. DonateLife staff must not determine death, direct care before death, or order extra sedation to suppress movement so recovery can continue.

5. Ministerial direction and NHRA

The Minister is to: (a) give this Policy to the CEO of the Authority as a policy for the purposes of section 57 of the OTA Act; (b) table a National Health Reform Agreement addendum item requiring each State and Territory, as a condition of receiving the Commonwealth NHRA contribution for public hospital services in which donation is contemplated, to give effect to the national donor-protection standard in public hospitals; and (c) require the Independent Health and Aged Care Pricing Authority and the Administrator of the National Health Funding Pool to treat a knowing breach of the pause rule as a quality matter reportable to the Commonwealth.

6. Reporting to the Commonwealth

Each DonateLife Agency must report a pause to the CEO of the Authority within 24 hours. The CEO must include a de-identified national summary in the Authority's annual report to the Minister, to be tabled in both Houses. Records must be kept for ten years.

7. Enforcement by the Commonwealth

Breach of this Policy by a DonateLife Agency is grounds for additional conditions, suspension or ending of Commonwealth support, after notice. Breach by a public hospital in an NHRA-funded service is to be treated as a failure of the safety and quality obligations of the Agreement. Individual conduct may be referred to Ahpra. Nothing limits a coroner or police.

8. What this Policy is not

It is not an opt-out register. It does not ban donation after circulatory determination of death. It does not transfer the legal definition of death to the Commonwealth. It does not assert that Australian hospitals are running a live-harvest program. It is a Commonwealth stop-rule so that failure mode cannot take root in services the Commonwealth pays for.

Commonwealth model policy prepared 14 September 2026. Operative when the Minister adopts it or when the companion Act commences.