Explanatory note on new organ donation Bill in Wales

The proposed Act will make two significant changes to the existing legislation for organ donation in Wales. The purpose of these changes is to increase the number of organs and tissues available for transplant.

* It **supports the system of presumed consent** for organ donation
* This presumed consent should **apply to those over 16 rather than 18**. This is because there is a presumption at 16 that young people can make all kinds of very important and complex decisions regarding their care and treatment, including a decision to opt-out of organ donation. This will only apply to those individuals who have mental capacity and are therefore deemed competent.
* New figures show parents are significantly less likely to donate their child’s organs for lifesaving transplants, which limits the number of organs available for children on the transplant waiting list. Statistics collected in 2018 and released by NHS Blood and Transplant for Organ Donation Week, shows only 48% of families supported donation for a relative aged 17 and under last year. That compares to an average of 66% families agreeing for relatives of all ages. This Act will therefore support children to make their own decisions in terms of organ donation.
* The legislation will enable children to have more autonomy through the organ donation process. It also places greater importance on wishes of children and allows discussions between children to be considered when making decisions about organ donation. It disables the ‘veto process’ which would allow adults to make decisions in respect of their children.
* The new legislation will enable organ donation to take place in the event of cardiac death, it will not require patients to have suffered brain death in addition. This is not stated in the original legislation. The cardiac death will need to be diagnosed by a Doctor, but this change would enable organs to be harvested much more quickly, potentially saving lives.
* This new legislation cause difficulty for members of the Muslim community, as well as other religious communities, who require a patient to be ‘brainstem dead’ before organs are harvested for donation. For some Muslim people, brain death is accepted as true death, and therefore cardiac death would not be sufficient for this. Deciding to donate one’s organs is a very personal matter; however the new legislation takes less control away from family members and places it on the donor themselves.

Before this new legislation, there were three choices facing Muslims as a result of the debate and changes in the law. It is a personal choice with all three positions supported by scholarly opinion. Muslims may choose to:

1. Donate their organs after neurological death
2. Donate their organs only after circulatory death
3. Not donate their organs

Currently around two thirds of deceased donors donate following brainstem death, with the rest proceeding only after circulatory death. Both types of donation bring massive benefit to those awaiting transplantation and their families and loved ones.

This legislation removes the second option, which would likely have the effect of increasing donation rates overall.