

Legal Parenthood & Parental Responsibility



Information for Patients and Partners



What is this leaflet about and who is it for?

This leaflet has been produced to give patients more information about legal parenthood and parental responsibility when using donor sperm.

What is legal parenthood and why is it important?

A woman who gives birth to a child in the UK is recognised as the legal mother/parent.

Under UK law, the sperm donor is **not** considered to be the legal father of any child born following the use of his sperm and as such, does not have any legal, financial, or parental responsibilities towards the resultant child or children.

It is important before you embark on any treatment using donor sperm, that you are fully aware of the legal implications according to your own personal circumstances, and the choices you make for you, your partner, and any prospective child.

It is important that you understand who will be the parents of any child/children born as a result of treatment. This is also important for any child so there is no dispute about who a child's parents are.

A child can only ever have two legal parents under English law (although additional adults can acquire legal status or rights for a child, e.g., parental responsibility, contact, residence).

The status of legal parenthood for a child carries with it implications for:

- The financial responsibility for a child – child maintenance
- Inheritance rights – giving your child a right of inheritance from you

Legal parenthood creates a lifelong legal connection with a child. Legal parenthood is different from parental responsibility, and it is possible to hold one without the other or both in law.

What is parental responsibility?

All mothers and most fathers have legal rights and responsibilities as a parent - known as 'parental responsibility'.

If you have parental responsibility, your most important roles are to:

- Provide a home for the child
- Protect and maintain the child

You're also responsible for:

- Disciplining the child
- Choosing and providing for the child's education
- Agreeing to the child's medical treatment
- Naming the child and agreeing to any change of name
- Looking after the child's property

Parents have to ensure that their child is supported financially, whether they have parental responsibility or not.

The law in other countries

The law in other countries may be different from that in the United Kingdom. Nationals or residents of other countries, or individuals treated with gametes obtained from nationals or residents of other countries, should be aware that there may be differences and are advised to seek independent legal advice.

Implications for married couples seeking treatment with donor sperm or embryos created *in vitro* using donor sperm

Where a married woman is seeking treatment using donor sperm from a HFEA licensed fertility centre her husband will be deemed to be the father of any child born as a result of that treatment unless he specifically does not consent to the treatment.

If you wish to be registered as the legal parent to any child born if you die before embryos (that were created before your death) are transferred to your partner, you are required to complete and sign a Posthumous Birth

Registration (PBR) form: *Your consent to being registered as the legal parent in the event of your death.*

Implications for those in a civil partnership seeking treatment with donor sperm or embryos created *in vitro* using donor sperm

Following the HFE Act of 2008, the civil partner of the woman who gives birth will be recognised as the legal second parent, unless she explicitly states that she does not consent to the treatment.

If you wish to be registered as the legal parent to any child born if you die before embryos (that were created before your death) are transferred to your partner, you are required to complete and sign a Posthumous Birth Registration (PBR) form: *Your consent to being registered as the legal parent in the event of your death.*

Implications for unmarried couples and same sex couples who are not in a civil partnership

You do not have to be married or in a civil partnership in order to for the woman's partner to be recognised as a child's legal father or second parent, but you must ensure that you and your partner sign the right consents.

For a heterosexual couple who are not married, both partners must consent to the man being the father of the child in order for him to be legally recognised as such.

For a same-sex couple who are not in a civil partnership, both partners will need to consent to the woman who will not give birth being the child's second parent, in order for her to be legally recognised as such.

The woman planning to carry the child must complete consent form WP (*Your consent to your partner being the legal parent form*) and the partner wishing to be the father or second parent must complete consent form PP (*Your consent to being the legal parent form*).

Prohibited degrees of relationship

For the agreed female parenthood conditions to apply, as per section 44 of the Human Fertilisation and Embryology Act 2008, patients undergoing treatment and their female partner must not be "*within prohibited degrees of relationship in relation to each other*".

Two people are within prohibited degrees of relationship if one is the other's parent or step-parent, grandparent or step-grandparent, sibling or step-brother/-sister, aunt or uncle (or step-aunt/-uncle). 'Parent' includes adoptive parents and former adoptive parents, but brother/sister does not include adoptive brothers/sisters (unless they are also biological or step-siblings).

When should the forms be signed?

The HFEA forms PP & WP or PBR will be provided to you by clinic staff, they will also provide you with the relevant information to allow you to make an informed decision and understand the implications of signing this form. Both partners will also be offered the opportunity to have counselling about this decision. These forms **MUST** be signed and returned to the clinic before any treatment commences, or they may not be valid and treatment may not be carried out.

Implications for single women who wish to have treatment using donor sperm

You do not have to have a partner to be treated with donor sperm. If you have treatment at an HFEA licensed unit, you will be treated as your child's only parent and the donor will have no legal rights or responsibilities.

Implications for those seeking treatment with a known donor

It is possible for a woman to be inseminated by a known donor in a HFEA licensed unit, and we are happy to provide this treatment here at the Leicester Fertility Centre.

The same law regarding fatherhood applies to all sperm donors, whether known to the recipient or not. In other words, provided the sperm donation and treatment occurs through a licensed clinic, the donor is not considered the legal father of any children that may result from treatment.

Implications for patients seeking treatment whilst still married or in a civil partnership with a previous partner

Patients should be aware that previous partners have legal parenthood rights if the relationship has not been legally dissolved, unless it can be demonstrated that they did not consent. Separated but not yet legally divorced patients can be treated if the patient signs an HFEA Lack of Consent (LC) form which can be used to establish the situation at the time of treatment. Completing this form does not guarantee that your spouse or civil partner will not be the legal parent of any child born from your fertility treatment. If legal parenthood is disputed, it will be for the family court and/or births registrar to determine, but this form can be used as evidence that, in your view, your spouse or civil partner did not consent to your treatment.

Withdrawing consent to legal parenthood

This is possible for unmarried couples or those not in a civil partnership, up to the point of insemination or embryo transfer. The patient can withdraw consent to their partner being the legal parent (which they originally gave on a WP form) by completion of an HFEA Withdrawal of Consent to Parenthood (WCP) form. Similarly, the partner could withdraw their own consent to be the legal parent (which they originally gave on a PP form) by completing a WCP form.

Seeking legal advice

Finally, in some cases, it may be useful to seek independent legal advice regarding legal parenthood and how the law would apply to your specific case. This is probably not required if your situation is clearly covered by the law and may only be needed if you are not married or not in a civil partnership and seeking treatment with donor sperm. In

this case, legal advice may help you ensure that your wishes are correctly recorded before your treatment starts. If you have doubts or concerns about legal parenthood or parental responsibility for a child born as a result of treatment services, you should seek further information and advice.

How to contact us

You can ring the Centre on 0116 258 5922 and ask to speak to one of the Counsellors, or leave a message asking for a call, or for an appointment.

We try to make appointments as flexible as possible, to fit in with your lifestyle and other commitments.

Our commitment to patients

We are constantly striving to improve our services to patients, and we will welcome your comments or suggestions for improvement.

Leicester Fertility Centre Contact Details

Tel: 0116 2585922
E-mail: LFCinfo@uhl-tr.nhs.uk
Website: www.leicesterfertilitycentre.org.uk

Useful addresses

Human Fertilisation and Embryology Authority: www.hfea.gov.uk

www.hfea.gov.uk/treatments/explore-all-treatments/becoming-the-legal-parents-of-your-child

www.hfea.gov.uk/donation/donor-conceived-people-and-their-parents

NICE guidelines: www.nice.org.uk

NHS - Response line: 111.nhs.uk / 111

NHS - Smoking helpline: 0300 123 1044

Fertility Network UK: www.fertilitynetworkuk.org / 0121 323 5025

Do you feel that you are at risk of verbal or physical abuse? If so, you may find the following numbers useful:

Domestic Violence Helpline:

United against violence & abuse (UAVA)

Helpline: 0808 802 0028

Email: info@uava.org.uk

Text support: 07715 994 962



This information was correct at the time of printing. While the Trust makes every reasonable effort to keep its information leaflets up to date, very recent changes may not be reflected in the guidance and you should discuss this with the clinical staff at the time of your appointment.

Questions

If you have any questions write them down here to remind you what to ask when you speak to your consultant.



Today's research is tomorrow's care

We all benefit from research. Leicester's Hospitals is a research active Trust so you may find that research is happening when you visit the hospital or your clinic.

If you are interested in finding out how you can become involved in a clinical trial or to find out more about taking part in research, please speak to your clinician or GP.

If you need information in a different language or format, please call the number(s) below or email equality@uhl-tr.nhs.uk

اگر آپ کو یہ معلومات کسی اور زبان میں درکار ہیں، تو براہ کرم مندرجہ ذیل نمبر پر ٹیلی فون کریں۔

على هذه المعلومات بلغة أخرى، الرجاء الاتصال على رقم الهاتف الذي يظهر في الأسفل
જો તમને અન્ય ભાષામાં આ માહિતી જોઈતી હોય, તો નીચે આપેલ નંબર પર કૃપા કરી ટેલિફોન કરો

ਜੇ ਤੁਸੀਂ ਇਹ ਜਾਣਕਾਰੀ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿੱਚ ਚਾਹੁੰਦੇ ਹੋ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਹੇਠਾਂ ਦਿੱਤੇ ਨੰਬਰ 'ਤੇ ਟੈਲੀਫੋਨ ਕਰੋ।

Aby uzyskać informacje w innym języku, proszę zadzwonić pod podany niżej numer telefonu

0116 258 4382 or 0116 250 2959