

Eggs, Sperm and Embryos - Consent to treatment

There are various reasons for storing eggs, sperm and embryos. This may be for use in the future if you are having a course of medical treatment which will render you infertile or you may have already conceived a child with donor eggs or sperm and wish to store gametes from the same donor for future siblings. Whatever your reasons it is important that you are fully aware of the various rules and regulations that apply to fertility treatment.

How do I give consent?

You must consent to your eggs, sperm or embryos being used in treatment, stored or donated to another person.

Consent must be given in writing and must be signed (there are special rules which allow you to ask someone else to sign for you in certain circumstances). Consent is normally given by completing an HFEA form at your clinic although you could also give consent validly in another written form (such as a letter).

Before giving consent, you must have been offered counselling and given proper information about the implications of your treatment or of donation.

Exceptions to the consent requirement

There are some exceptional circumstances in which eggs, sperm or embryos can be stored without consent:

Adults - Eggs or sperm from an adult can be stored without consent if a person is temporarily mentally incapacitated and expected to undergo medical treatment that will significantly impair his/ her fertility. A doctor must certify that storage is in his/her best interests.

Children - Eggs or sperm from a child can be stored without consent if he/she is about to undergo medical treatment that will impair his/her fertility. Again, a doctor must certify that storage is in his/her best interests.

In both cases, the eggs or sperm can only be stored; they cannot be used in treatment unless the person becomes capable and gives consent. The rules also do not allow gametes to be stored after someone's death if they have not given consent to their use prior to death.

Withdrawing consent

Frozen embryos or gametes can only continue to be stored while both parties consent. You can vary or withdraw your consent by giving signed notice in writing to the clinic storing your gametes or embryos. Consent can be withdrawn at any time before your gametes or embryos are 'used' (which means being placed in the body of a woman or being used for research).

In relation to embryos, the right to withdraw consent belongs to each gamete provider (including donors). This means that either can ask for the embryo to be destroyed. Following a change in the law, there has been an introduction of a 'cooling off' period which means that clinics will store embryos for 12 months where one of the gamete providers withdraws consent to storage. The clinic storing the embryo must take all reasonable steps to notify everyone the embryo was to be 'used in treatment' for. The embryo cannot be used in treatment during this time unless both gamete providers consent. If all the people notified confirm that they are happy for the embryo to be destroyed, it can be allowed to perish before the end of the cooling off period. If not, the embryo must continue to be held in storage for 12 months, giving the person who has withdrawn consent the opportunity to change his/her mind before the embryo has to be destroyed. If he or she does not change his/her mind, the embryo will be destroyed at the end of the year.

Donor gametes and embryos stored for siblings

If you have conceived a child with donor eggs or sperm (or donated embryos), you may wish to reserve gametes from your donor for future use so that your children are full genetic siblings.

It is important to understand that the basic consent rules still apply, even if you have paid to reserve the gametes or embryos. This means that your donor has a legal right to withdraw his/her consent to storage at any time before the gametes or embryos are used in your treatment.

In relation to gametes, the clinic storing them will have to allow them to perish immediately. In relation to embryos, the statutory one year cooling off period applies before the embryos can be destroyed.

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