

Sperm Donors

In the UK, it is a criminal offence to donate sperm for commercial gain but many men still choose to donate sperm for a host of other reasons. Whatever your reason for donating sperm your decision to donate could have huge consequences in the future for both you and your family and so careful consideration needs to be given to both the legal and emotional consequences of donating sperm.

Unknown donor at licensed clinic

If you choose to donate your sperm at a Human Fertilisation and Embryology Authority (HFEA) licensed clinic for use by unknown recipients then any children born as a result of your sperm will not be considered your legal children. Although you will be genetically linked to the child/children, you will have no parental rights or responsibilities towards them.

However, the child conceived as a result of your sperm will have a right to access information about you.

Donations before 1 April 2005

If you became a donor before 1 April 2005 then the child is entitled to find out non-identifying information about you. This may include things such as ethnicity, hair colour and occupation.

Donations after 1 April 2005

If you became a donor after 1 April 2005 (or choose to re-register as an identifiable donor) then the child is 18 years of age they are entitled to identifying information about you. This information includes your name and address so that the child can get in touch with you.

Since 1 October 2009

Since 1 October 2009 you too have the right to find out information about children conceived using your sperm. You cannot obtain identifying information about the children but you can find out if any children have been conceived using your sperm, whether the children are boys or girls and the year they were born.

Known donor

You may decide to donate sperm as a known donor. This can be done either at a clinic or at home.

Donating sperm as a known donor is not as simple as donating as an unknown donor and your role as a legal father is not always excluded and will depend upon who the sperm is being donated to.

You will not be considered the legal father if you donate to:

- A married couple if the couple conceive either at a licensed clinic or at home by artificial means
- An unmarried couple if the couple conceive at a licensed clinic and sign the relevant HFEA parenthood forms
- A lesbian couple in a civil partnership providing conception takes place after 6 April 2009 and in either a licensed clinic or at home by artificial means
- A lesbian couple not in a civil partnership if the couple conceive after 6 April 2009, in a licensed clinic and both mothers sign the parenthood forms.

In all other circumstances you will be considered the legal father and will have all the rights and responsibilities associated with being a father. This means that you could be pursued for a financial contribution to your child's upbringing.

It may be that you want to be considered the legal father and want to play an active role in your child's life. If that is the case we recommend that you read our leaflet entitled 'Co-parenting' and seek legal advice on entering into a parenting agreement.

If you do not wish to be considered the legal father but are not donating to any of the couples outlined above then you could have your legal fatherhood status extinguished if the intended parents apply to adopt the child.

Whatever your intentions, it is advisable to enter into a sperm donor agreement to govern the use of your sperm and outline your fatherhood position before donating.

Sperm donor agreement

A sperm donor agreement is an agreement between the donor and the recipient outlining how the sperm is to be used. It is designed to protect the donor from any adverse financial consequences and parental responsibilities and vests full parental responsibility in the recipient.

Preparing a sperm donor agreement is useful as it encourages you to consider all the issues that donating sperm as a known donor can create. It is always advisable to consider all of the issues at the start so that any potential disputes can be avoided.

The following are some of the issues to consider and include in the agreement:

- Whether the donor will be reimbursed for any expenses
- Who will be named on the birth certificate
- What legal applications will be made after the birth, e.g. adoption orders
- Financial responsibility for the child
- Provision for future donations to provide for future siblings
- Whether child should have right to contact donor
- Whether donor has right to contact the child
- What happens to the child if the intended parents die

This list is not exhaustive and you may have other specific things in mind that you want to include in the agreement.

Sperm donor agreements are not legally binding in the UK as any dispute involving a child requires that the court consider the best interests of the child. However, if all parties take independent legal advice before entering into the sperm donor agreement the court will give a great deal of weight to the agreement.

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