

## Information for Patients

# Legal Parenthood

This leaflet applies to couples and single people individuals undergoing treatment with donor sperm, donor eggs or embryos

## 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 of that child.

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

It is important that, before you embark on treatment using donor sperm, eggs or embryos, you are fully aware of the legal implications according to your own personal circumstances. This leaflet is designed to provide you with the necessary information to help you understand the law in this area and to help ensure you complete consent forms in a way that reflects what you wish to happen.

Please read the following information carefully. Our staff and specialised counsellors are also able to help you understand the issues and implications of various decisions. This is one of the reasons we strongly recommend, and provide, specialist counselling prior to this form of treatment. A further resource is the website of the Human Fertilisation and Embryology Authority (HFEA) at [www.hfea.gov.uk](http://www.hfea.gov.uk).

It is essential that all consent forms are completed prior to the treatment starting. We are not able to start treatment using donor sperm, donor eggs or embryos created in vitro using donor sperm until the consent forms relating to legal parenthood have been completed and signed.

## Implications for Married Couples seeking treatment with donor sperm, donor eggs or embryos created in vitro using donor sperm

Where a married woman has the above treatment 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. No Legal Parenthood forms are required. If the husband wishes to be registered as the father of a child born after his death, he **must** complete HFEA consent form PBR. Please note, this does not apply to donor intrauterine insemination (IUI) as no embryos are created.

If a married woman is seeking the above treatment but her husband does not consent to it, she must complete *HFEA form LC*. However in the event of a dispute this does NOT necessarily mean that the estranged husband will not be the legal father. If a dispute arose the woman could use this form to help her demonstrate her husband's lack of consent at the time of her treatment.

**You are strongly advised to seek your own legal advice about parenthood before undergoing treatment.**

## Implications for those in a Civil Partnership seeking treatment with donor sperm or embryos created in vitro using donor sperm

The law (HFE Act of 2008) states that the civil partner of the woman who gives birth will be recognised as the legal second parent, unless she explicitly does not consent to the treatment. No legal parenthood forms are required. If the civil partner wishes to be registered as the second parent of a child born after her death, she **must** complete HFEA consent form PBR. Please note, this does not apply to donor intrauterine insemination (IUI) as no embryos are created.

If a woman in a Civil Partnership is seeking the above treatment but her partner does not consent to it, the intended birth mother must complete *HFEA form LC*. However in the event of a dispute this does **not** necessarily mean that the estranged wife will not be the legal second parent. If a dispute arose the woman could use this form to help her demonstrate her wife's lack of consent at the time of her treatment.

**You are strongly advised to seek your own legal advice about parenthood before undergoing treatment.**

## Implications for Unmarried Couples and Same Sex Couples who are not in a Civil Partnership seeking treatment with donor sperm or embryos created in vitro using donor sperm

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 consent forms.

For a heterosexual or same sex couples who are not married or in a legally binding civil partnership, both partners must consent to the man being the father or second parent of the child in order for them to be legally recognised as such. The woman must complete Consent form WP and the man or second parent must complete Consent form PP.

## **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 any HFEA licenced unit, you will be treated as your child's only parent and the donor will have no legal rights or responsibilities. However if you use donated embryos as a single woman the law does not explicitly absolve the donor of parenthood as it does for using donor sperm. Therefore you are strongly advised to seek legal advice as a single woman regarding legal parenthood if you will be using donated embryos before proceeding with treatment.

## **Implications for those seeking treatment with a Known Donor**

It is possible for a woman to be inseminated by a known sperm donor in a HFEA licenced unit. 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 licenced clinic, the donor is not considered the legal father of any children that may result from treatment.

## **Seeking legal advice**

It is your responsibility and it is strongly advised to seek legal advice before proceeding in some cases as explained above regarding how the law would apply to your specific case. This is probably not required if your situation is clearly covered by the law. However, you may feel that your circumstances are 'different' and in this case, legal advice may help you ensure that your wishes are correctly recorded before your treatment starts.

## **Withholding or Withdrawing Consent to legal parenthood**

For civil partners and married couples undergoing treatment with donor sperm or embryos created in vitro using donor sperm, if the husband or civil partner explicitly states that they do not give consent to their partner's treatment, they may do so at any time up to the time of insemination or embryo transfer.

You may withdraw consent in writing, stating your partner's name and making it clear that you are withdrawing consent to treatment and to being the legal father or second parent.

If consent is withdrawn, the woman receiving treatment will be informed of this and will not be treated

If you are not married or in a civil partnership, you can withdraw consent at any time up to insemination or embryo transfer. This can be done by completing HFEA form WC which can be provided for you. Please let us know as soon as possible so that we can provide you with this form.

If consent is withdrawn, the woman receiving treatment will be informed of this and will not be treated in cases of withdrawal of consent counselling will be offered and a cooling off period may be allowed.

However treatment will not proceed without clarity regarding legal parenthood, this may involve you seeking your own independent legal advice. In some cases treatment may not be able to proceed at all if a withdrawal of consent has been received.