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# Myerson **Family**

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**Our guide to fertility**

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# Welcome

We understand the complexities of modern life and, therefore, everything we do is ultimately about you, and it is important you get to know the team that will be working with you every step of the way. It's a deep source of satisfaction that so many clients choose Myerson as their trusted adviser.

## Why Myerson?

Our highly experienced and discreet family lawyers, provide clear and supportive legal advice, tailored towards your individual family needs.

As a Top 200 UK Law Firm, we are also proud to be ranked as '**Top Tier**' in the prestigious international directory **The Legal 500**, and commended by The Times '**Best Law Firms 2023**'. This means you can be certain that you will be receiving the highest quality legal advice.

Being a full-service law firm means we are well placed to provide wide-ranging, tailored legal advice to meet your individual needs. We work closely with other departments internally including Real Estate, Corporate, Commercial and Private Wealth Lawyers to ensure that your needs are protected comprehensively.

You can find out more about our **Family Team** by clicking [here](#).



# Fertility

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## Fertility law

Deciding to start a family can be one of the most exciting decisions that you make in life.

It is important to seek out expert legal support to assist you in making the right decisions on your route to parenthood.

## How can a solicitor help you?

There are various routes to parenthood, and however you decide to start a family, it is important to seek legal advice on topics such as parental rights, consent to treatment, donor rights, freezing your eggs/sperm, surrogacy or adoption, to name a few.

## Who is the legal parent of a child born after fertility treatment?

The woman who gives birth to the child is always the legal mother, whether or not donor eggs and/or donor sperm were used as part of treatment. If the mother is married or in a civil partnership, her husband, wife or civil partner will be the other legal parent.

If the mother is unmarried or not in a civil partnership, signed consent forms will need to be given to the clinic, stating who the mother intends to be the legal parent. Provided that the mother and the other intended legal parent sign the correct consent forms, they will both be legal parents of the child at birth.



It is very important that treatment takes place at a HFEA (Human Fertilisation and Embryology Authority) licenced UK fertility clinic; otherwise, this can affect parental rights.

Single parents can also go through fertility treatment. In this scenario, the birth mother will be the only legal parent of the child.

Sometimes, a couple who are not in a relationship will decide to have fertility treatment. This is entirely legal, and both of them will have legal parent status if the correct consent forms are signed and given to the clinic.

Whatever your situation, your fertility clinic will guide you as to what consent forms are needed.

It is important to note that legal parenthood as described above is not the same as 'Parental Responsibility'. Parental Responsibility is only conferred to the non-birth parent if they are married to the mother at the time of birth or, they are registered as the parent on the birth certificate.

If there is a dispute about Parental Responsibility, you will need legal advice.

## **What if my partner withdraws their consent to legal parenthood?**

Sometimes, relationships break down, and that can result in the other intended parent withdrawing their consent to be the legal parent of any child born. The birth mother also has the option to withdraw their consent to their partner, being the legal parent.

Consent to legal parenthood can be withdrawn at any point before the transfer of the embryo or sperm into the intended mother.

If the birth mother is married or in a civil partnership, withdrawal of consent is much more complicated from a legal standpoint. Both parties will likely require independent legal advice in this situation.



# Donors

It is possible to donate sperm, eggs or embryos. Donors can choose to donate to someone else's fertility treatment, fertility research, or both.

The law surrounding donor anonymity has changed over the years. Anyone who donated before 1 April 2005 is automatically an anonymous donor. For any donors who donated after this date, the children born from the donation can ask for their donor's name and last known address once they reach 18 years old.

Every year, around 3,500 children are conceived with the help of donor eggs and/or donor sperm. Individuals who are able to donate often recognise the extraordinary gift they can give, and the fact that they do not remain anonymous does not affect their choice to donate.

## Storage and future use of embryos

After treatment, you may have excess embryos, and you can choose to store these for up to 10 years, for future use (or longer, in certain circumstances). After the end of the chosen storage period, the embryos will be allowed to perish.

If the embryos were created using both your eggs and sperm, you could choose how long they are stored for, up to the 10-year limit. However, if the embryos were created using donor eggs and/or donor sperm, the consent of your donor(s) would be needed for the continued storage and future use.

Something important to bear in mind is that donor sperm from one donor can only be used for ten families. It is, therefore, possible to "reserve" sperm for your future use. This is an option for those who are wanting further children who are genetically related.



# What if the donor withdraws consent?

If a donor withdraws their consent to further storage or use of the embryo, this will prevent the use of the embryo. This can be very disappointing for some parents who would like to have another child who is genetically related to their previous child(ren).

# What if my partner withdraws consent?

If a couple, who previously had fertility treatment together separate, one person could withdraw their consent to the ongoing storage or use of their embryos. This would mean that those embryos can no longer be used unless the person who has withdrawn consent changes their mind.

For that reason, there is a period of 12 months, where the embryos will continue to be stored after the withdrawal of consent.

Consent to the future use of embryos can be withdrawn at any point before the embryo is transferred into the intended birth mother.

Some people may choose to store and donate their embryos to fertility research. As above, consent can be withdrawn to ongoing storage and research use at any point before the embryos are used for that purpose.



# What is posthumous conception?

Posthumous conception is conception with someone's egg, sperm or embryo after they have died. When someone consents to the storage of their eggs, sperm or embryo, they are also asked what they would like to happen if they were to die or become mentally incapacitated.

Generally, posthumous conception is only allowed when the deceased or mentally incapacitated person has given their written and signed consent to post-death or incapacitation storage and use.

Depending on when the eggs, sperm or embryo were stored, timing can be of the essence. This is because consent to the storage and use cannot be extended beyond the originally agreed limit (typically, 10 years), once the individual has died.

However, there are some rare exceptions to the general rule which mean that posthumous conception can be allowed when express consent has not been given. In these circumstances, the intended parent(s) will need specialist legal advice.

## Preserving your fertility

More and more people are planning for their future, and for some, preserving fertility is extremely important.

Due to significant advancements in medical technology, it is possible to elect to freeze your eggs or sperm for future use. This is particularly attractive for people who are not yet ready to start a family but may wish to do so later in life. Further, it is a popular option with those who fall ill with certain diseases, such as cancer, when the disease itself or the treatment could affect fertility.

The usual storage period for eggs and sperm is up to 10 years, but in certain circumstances, this can be extended. If you are thinking about preserving your fertility, you should visit a HFEA licenced UK fertility clinic for further advice and assistance with the process.





# You're in safe hands!

If you would like further information about how we can help you with **Fertility Law**, or if you have any questions, please don't hesitate to contact a member of our **Family Law Team** today.

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