

Sperm donation and the law:

The requirements and rights of sperm donors, and of those conceived by sperm donation

By Natalie Gamble

A complex set of laws

Over the last 20 years the focus of UK donor conception law has shifted – away from protecting the secrecy of parents and donors towards giving donor-conceived people information about their genetic identity. But while the move toward greater openness is undoubtedly positive, the legacy of repeated legal changes (in 1991, 2005 and 2009) still makes this a difficult and challenging area. Donor-conceived people (and their parents) simply want to know, 'What will I be able to find out about my genetic relatives?'

The law which applies to you, will depend on when you were conceived

If you were conceived in the UK before 1st August 1991, there will be no central record of the details of your donor conception. So finding out about your donor's identity or the identity of any genetic siblings (of which there may be any number, since there was no cap on the numbers of families created by any one donor at this time) is a matter of detective work.

If you were conceived in the UK after 1st August 1991, information about your donor conception will be recorded on the centrally kept Human Fertilisation and Embryology Authority

(HFEA) Register of Information. The information recorded will include the identity of your donor and the identity of your donor-conceived siblings (ie, your donor's offspring in other donor conceived families). However, what information you can access will depend on your particular circumstances.

If you are recorded on the HFEA's Register of Information, you will have the right to access information about any of your siblings also recorded. At 16 (or before if your parents support you) you can find out how many siblings you have on the Register, and their sex and approximate age. Following changes to the law which took effect in October 2009, you can also, at age 18, join the HFEA's Donor Sibling Link register to make contact with them. If any of your siblings are over 18 and have also joined, the HFEA will help you get in touch with each other. These provisions are new, and the exciting prospect of being able to contact siblings is an important new legal right for donor-conceived people, of which many are not yet fully aware.

Whether you can find out information about your donor is more complicated. Although the information will be recorded on the HFEA's Register of Information, the law (which

changed in April 2005) contains some complicated rules about what information you can access.

If you were conceived between 1st August 1991 and 1st April 2005 you will probably only be able to find out non-identifying information about your donor (such as hair colour, eye colour, occupation etc). Until April 2005, donors were allowed to donate on the basis that their identity would never be revealed, and when donor anonymity was lifted in 2005 the change in the law was not retrospective.

However, this does not quite tell the whole story. Pre-2005 donors do have the opportunity to elect to become identifiable at any time (and have to do so if they want to donate again). Although very few anonymous donors have so far changed their status, it will be interesting to see how many do so in the decades ahead, particularly with growing openness and understanding of donor conception. It is certainly worth checking with the HFEA from time to time whether your anonymous donor has become identifiable.

If you were conceived in the UK after 1st April 2005, it is highly likely that your donor will be 'identifiable', which means that you can ask the HFEA for your donor's name and address once you are 18. Clinics were given a period of grace between 1st April 2005 and 31st March 2006 during which time they could use up their stocks of anonymous donated eggs and sperm, so if you were conceived during this period, you should check with the HFEA whether your donor is anonymous or identifiable.

If you were conceived after 1st April 2006, your donor will be identifiable if you were conceived in the UK, unless you have an older sibling conceived with anonymous eggs or sperm from the same donor.

So the changes to the law over the past 20 years have created a complex set of rules, and it may not always be easy to work out how they apply to you. Approaching the HFEA about



Natalie Gamble is a partner with leading specialist fertility law firm Gamble and Ghevaert LLP

your particular circumstances is usually the best place to start, or you can seek independent legal advice.

This all assumes, of course, that your conception took place in the UK. As the article on page 25 highlights, the HFEA's remit only extends to conceptions in the UK, and this means that children conceived outside the UK will not fall within the regulated framework explained here. Those conceived abroad will be in a similar position to those conceived in the UK before 1991, limited to more informal means of seeking information about their genetic relatives.

Thoughts for the future

Of course, we are living through an information revolution, and the informal ways of accessing genetic information may well be revolutionised in the decades to come. If Google becomes searchable by DNA, the whole issue of how the law regulates information about donor conception could become utterly irrelevant.

My personal hope is that parents' growing courage to be honest about donor conception will mean that, however information is ultimately accessed, making connections with genetic relatives will become nothing but an exciting and life-enriching benefit of being donor-conceived. ○