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Your questions answered

WHAT IS FERTILITY TREATMENT LAW IN THE UK?

It is understood that 1 in 6 couples in the UK faces some kind of infertility when trying to conceive. A large percentage of these couples turn to fertility clinics for assistance, whilst others use known donors or overseas clinics.

What is fertility treatment law in the UK?

The law around fertility treatment in a clinic is relatively clear. Under UK law, a child's legal mother is always the woman who carries and gives birth to that child (regardless of biology). However, there are some differences based on whether the couple is married or not.

Fertility treatment law for married couples

If the woman is married, then her husband or wife will be recognised as the father/second legal parent. These rules apply to any conception which takes place through artificial insemination; whether at a clinic in the UK, overseas or at home.

Fertility treatment law for unmarried couples

If the mother is not married, but in a relationship, she and her partner must complete the relevant HFEA Forms WP and PP before the treatment takes place.

The couple must also have followed the relevant protocol, i.e. had counselling and been given clear guidance on the forms they are signing. Once completed, the partner will obtain legal parenthood and can be registered on the birth certificate.

It is key to note here, that the forms must be completed correctly before conception or they will not be effective and the partner will not be automatically recognised as a legal parent. There has previously been a run of cases in which the forms were not completed correctly, or not completed at all, often at the fault of the fertility clinic leaving the second legal parent's position unresolved and unclear.

Conception at home

If conception takes place at home, and the mother is unmarried, then the rules become a little more complicated. This is because there is the possibility the donor in these circumstances will be recognised as the legal father of the child, regardless of the parties intentions, any agreement entered into and what is ultimately recorded on the child's birth certificate.

This can leave the sperm donor liable to pay child maintenance for that child, but also with the ability to make an application to the Court if there is a dispute around arrangements for the child.

It is always worth seeking legal advice, before conception, to understand what the legal position is and potentially enter into a pre-conception agreement, if relevant and necessary.

If fertility treatment is unsuccessful, or perhaps not an option, then options such as surrogacy and adoption are becoming more popular as a way for people to grow their families and our surrogacy and adoption teams can advise on the various options available for intended parent/s.

Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit www.stowfamilylaw.co.uk



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