

Sperm Donor Anonymity – A Distant Memory

With the plethora of alternative ways now available to either participate in conception, birth or take care of a child and the interest in family trees, the issue of sperm donation has once again come into the spotlight.

In particular, this is being accentuated by the use of social media, celebrity culture and the rapid rise of ancestry companies who use DNA testing information to make links with often unknown individuals and geographical origins. The result is that the possibility of identifying a sperm donor and biologically related siblings is now very high. This raises questions within the law (which arguably has not kept pace with society) and ethical issues, with regard to personal privacy both for donors and also for donor conceived children.

In 1991, the nascent Human Embryology and Fertilisation Authority began to record data regarding donor conceived children and allowed access to benign information about the donor and the number of genetic siblings. Donors were at this point promised lifelong anonymity, which has created, in 2020, conflicting rights. In 2005 a more profound change occurred¹ in that donors obtained the right to learn the identity of their donor when they turned 18 (and 2023 is getting very close). As part of this legislative change sperm donors also gained the option to remove anonymity if they wished and post 2005, donors must agree to waive their anonymity when any donor conceived child is 18. These circumstances are a significant challenge to the concept of donor anonymity. As a consequence, the number of sperm donors in the UK has declined.

There has been an explosion in people taking DNA tests for ancestry...26 million by 2019, which is expected to rise to 100 million in 2021. The DNA databases held by the ancestry DNA testing companies are now both huge and powerful, enabling distant relatives and individuals to be presumptively identified with relative ease (half second cousin or closer). Together with online information such as surname searches and family trees, putative relatives can be identified with ease. Some donors embrace this, others are waiting with trepidation - in the excitement of the chase, often the donor conceived child acting as amateur sleuth, places too much emphasis on weak circumstantial evidence derived from ancestry DNA tests. We consider that confirmation of the biological relationship is an essential step to take before leaping into the emotional abyss. Firm knowledge of either biological paternity or siblingship (most likely half siblings, united by a common father) using an appropriate DNA test is paramount.

Yet, in an evolving niche, a smaller group of willing donors are finding other ways to contact recipients, such as Facebook groups² and co-parenting websites. There is even debate concerning the use of sperm from deceased males. Here the sperm is retrieved by electro stimulation and disingenuously compared to organ donation. Notwithstanding the issue of consent, children conceived in this way will never have the chance to meet their biological father, a circumstance which requires ethical consideration.

¹Human Fertilisation and Embryology Act 2008, s24.

² [facebook.com/groups/DNADetectives](https://www.facebook.com/groups/DNADetectives)

Opinions towards anonymity are relaxing across Europe³ with the balance shifting from the anonymity of sperm donors towards the rights of donor conceived children to know their biological origins⁴. It is estimated that there were around 30,000 sperm donor conceived children in the UK between 1991 and 2005 and obviously a great deal more have been born since. In particular, an appropriate DNA test to determine biological parentage is essential for unequivocal confirmation. This is also required if legal recognition of the relationship is desired to change a birth certificate, to obtain a parental order or to resolve a matter of inheritance.

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The latter is a company accredited by the Ministry of Justice as a body that may carry out parentage tests directed by the civil courts in England and Wales under section 20 of the Family Law Reform Act 1969".

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³ Parliamentary Assembly, Council of Europe, Committee on Social Affairs, Health and Sustainable Development. Anonymous donation of sperm and oocytes: balancing the

weights of parents, donors and children. Draft adopted 21st January 2019.

⁴ Hallich, O., Sperm donation and the right to privacy. *New Bioethics* 2017, 23 p 107-120