

Guidelines for removing sperm from deceased persons for IVF

Endorsed by the State Coroner and Chief Forensic Pathologist

This document provides guidance to those wanting to remove sperm from a deceased person for in-vitro fertilisation (IVF), particularly the partner of the deceased, their solicitor and IVF organisation. Others may also find it useful (e.g. pathologists, counsellors, mortuary staff, Coroners).

Arranging to remove sperm after death involves several steps, and currently can only be **authorised** by the Supreme Court of Queensland. Written consent given by the deceased during life may not be enough to ensure authorisation. In reportable deaths, a coroner has to give consent, but cannot authorise the removal¹.

The help of a solicitor is likely to be necessary, particularly to arrange an application to the Supreme Court. Laws concerning the donation of other types of tissue after death may not apply to sperm².

The sperm and/or testis must be removed and processing started **within 24 hours of death**, otherwise sperm may not be viable. However, even prompt removal does not guarantee viability.

Removal of sperm after death is a technical medical procedure requiring the expertise of an IVF organisation, which is generally not available through the public health system. A private IVF organisation should be chosen through a GP, specialist or suitable website (e.g. <http://access.org.au/?p=2831>).

A person seeking sperm removal is responsible for meeting all the legal and medical expenses involved.

Steps involved if wanting to remove sperm from a deceased person for IVF

1. **Engage a solicitor**—to make an urgent application to the Supreme Court of Queensland for an order authorising sperm removal for IVF on behalf of the spouse or partner ('the applicant').
2. **Choose an IVF organisation.** This is critical. The IVF organisation should have trained medical and/or technical staff available out of hours (if necessary), who are able to:
 - remove, process and store the sperm, testis or other tissue in keeping with any court order as soon as it is issued.
 - give advice on all aspects of the process, e.g. exact steps the court order should authorise any non-invasive measures to prolong sperm viability while awaiting a court order.
3. **Consult a coroner**—if the death is (or may be) reportable under the *Coroners Act 2003*.
4. **Apply to the Supreme Court**—the applicant's solicitor should request orders for:
 - removal of sperm/testis or other tissue, as advised by the IVF organisation.
 - transfer of material removed to the IVF organisation for processing and storage.
 - removal of blood for testing (e.g. for HIV, hepatitis, etc. as advised by the IVF organisation).

5. **Tell the mortuary facility where the deceased is held**—if an application is made to the Supreme Court. The applicant/solicitor must do this immediately to avoid coronial autopsy or premature release of the body.
6. **If the court issues an order** authorising sperm removal and other procedures, the solicitor must:
 - immediately advise the IVF organisation and the mortuary facility so that the organisation can attend the facility and carry out the order without delay.
 - provide sealed copies of the Supreme Court order, as soon as practicable, to the facility, IVF organisation, and, if the death is reportable, the Coroner and pathologist.
7. **A second application to the Supreme Court** is likely to be required at a later date, seeking authority to use stored sperm for the purpose of IVF.

Contacts

Supreme Court civil list manager (07) 3247 4310

Supreme Court security (out of hours and urgent hearings) (07) 3247 4771

Coroners Court of Queensland (07) 3239 6193

References

¹ *Coroners Act 2003*, especially section 26 (Control of body)

² *Transplantation and Anatomy Act 1979*, Part 3 (Donations of tissue after death)