

Retrieving sperm or eggs after death

Information for surviving partners | Assisted Reproductive Technology Act 2024

This fact sheet outlines the steps to retrieve sperm or eggs from a dead or unresponsive person for later use.

Some couples face the very hard situation where one person dies before the couple have had the chance to have children.

Sperm or eggs retrieved from a dead or unresponsive person can be stored and later used in assisted reproductive technology (ART) procedures. Stored sperm or eggs may be used to help the surviving partner to become pregnant or create an embryo for surrogacy use.

Before retrieval

Finding a service

If your spouse has died or is unresponsive and you want to retrieve their sperm or eggs, you need to speak to a private fertility clinic.

Timeliness is important for sperm and egg retrieval. You should speak to a clinic nearby the hospital where your spouse is.

You can find a list of fertility clinics online by visiting the Fertility Society of Australia and New Zealand website at: <https://www.fertilitysociety.com.au>.

There are also some specialist fertility lawyers that can help you find an available fertility clinic.

Queensland public hospitals do not provide these services.

Cost

There will be a cost for these services. You should discuss this with the fertility clinic.

Consent

You must give the fertility clinic proof that your dead or unresponsive spouse either:

- consented to the retrieval of their sperm or eggs for use by you
- had not clearly opposed the use of their sperm or eggs after their death, and would likely have supported you using them.

Everyone's situation is different so proof of consent can vary. For example:

- text messages
- emails
- you and your family's memories of conversations with your spouse.

What matters is that there is some proof to support the retrieval.

Request

Only the dead or unresponsive person's spouse can make a request to a fertility clinic to retrieve gametes. This includes:

- de facto relationships
- civil partners
- married couples.

Other family members can only make a request in *exceptional circumstances*. A family member of the dead or unresponsive person, or surviving partner, can only make the request when the spouse either:

- is incapacitated and cannot make an informed decision (for example, where a couple is in an accident that kills one partner and the other is unconscious)



- cannot be contacted despite attempts to do so (for example, the spouse is overseas or in a remote location).

Coroner

If a coroner is involved, the fertility clinic will need to ensure the coroner has either:

- given consent for the retrieval
- said that their consent is not required.

Retrieval

Dead people

Once the consent and request steps have been completed, the fertility clinic can arrange for retrieval of the sperm or eggs by, or under the supervision of, a doctor.

Unresponsive people

It may be possible to retrieve sperm or eggs from a person who is in an unresponsive state, for example someone who is on life support.

A person is unresponsive if:

- Their breathing or blood circulation is being maintained in a hospital by artificial means.
- A doctor, who is a designated officer for the hospital, has certified in writing that they believe the person would die if the artificial means were withdrawn.

More steps need to be followed for retrieval of sperm and eggs from unresponsive people. The fertility clinic will organise this.

This type of retrieval may not always be possible. You should talk to your fertility clinic and the hospital to confirm if it is possible.

After retrieval

Storage

After the sperm or eggs are retrieved, they will be stored by the fertility clinic for potential use later. You should talk to the fertility clinic about storage.

Using sperm and eggs

The dead person's sperm or eggs can only be used by their partner. Sperm and eggs cannot be donated or used by anyone else.

There are more steps that must be followed for you to use the sperm or eggs to become pregnant or to create an embryo for surrogacy use.

This is to make sure that there has been enough time for you to grieve and to protect the interests of any child born as a result.

You may need to attend counselling before using the sperm or eggs. The fertility clinic will help you through this process.

More information

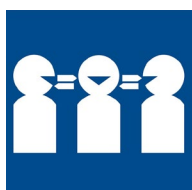
More information about Queensland's ART laws is available on the Queensland Health Website at:

<https://www.health.qld.gov.au/system-governance/legislation-bills/specific/assisted-reproductive-technology-legislation>.

Key contacts

For more information contact the Queensland Health Assisted Reproductive Technology Unit: ART@health.qld.gov.au

This address is only monitored during business hours.



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