Human Fertilisation & Embryology Authority

Consent Forms

A Guide for Clinic Staff

Version 9 – Revised 14 August 2024

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Introduction

Informed consent is one of the most important principles in healthcare and a fundamental feature of the Human Fertilisation and Embryology (HFE) Act 1990 (as amended). You are responsible under the Act for obtaining properly informed consent from your patients.

This reference guide is designed to help you understand your legal obligations and to use the individual consent forms and statutory notices appropriately. It is not designed to be used by patients.

It is important to note that consents can be done via paper copies or on electronic platforms, more information about electronic consents is given below.

You can find the forms and notices **on the consent form page on our website**. Here you can also find another resource, '**How to use consent forms and statutory notices – for clinic staff**', which gives you:

- information on who should complete each consent form, and
- treatment scenarios and which consent forms should be completed in each case.

Important note about this Guide

Throughout this Guide, there are green boxes which give examples of what can happen if different sections of the form are not completed correctly. The examples are for illustrative purposes only, which means that they are intended to be adapted to individual scenarios, as they are not representative of every situation. The examples are there to illustrate what can go wrong in one specific circumstance.

What are the legal obligations?

The HFE Act 1990 ('the Act') (as amended) requires licensed centres to ensure that consent given by patients before they store or use their eggs, sperm or embryos is fully informed, in writing and signed by the person giving consent. The Act also requires clinics to send Statutory Notices to patients at specific points as part of the renewal of consent process. The requirements and guidance regarding consent and renewal of consent are set out in the **Code of Practice** (primarily Guidance notes 5 and 17) and in General Direction 0007.

Before you ask your patients to give consent you must give them:

- enough information to enable them to understand the nature, purpose and implications of their treatment or donation
- a suitable opportunity to receive proper counselling about the implications of the steps which they are considering taking
- information about the procedure for varying or withdrawing any consent given and about the implications of doing so, and
- if applicable, information about the renewal of consent process and the consequences of not renewing their consent at the appropriate time.

You should record that you have provided this information in the patient's medical notes. You may wish to use the 'Record of information provided before obtaining consent – female or egg provider' and 'Record of information provided before obtaining consent - male or sperm provider,' which you can download from **this page of our website**. A record of the information and counselling provision provided at the time of

consent may be particularly important if the validity of the consent is ever called into question at a later date.

In 2022, **new laws were introduced** that changed the maximum storage period for gametes and embryos and introduced new responsibilities for clinics relating to the renewal of consent. You should ensure that you are using the current versions of HFEA forms in your centre. You can check this by reviewing the version number and date in the footer on each form. Forms should not be used before the date indicated in the footer.

Who completes the consent forms?

The person who is giving consent must fill in the consent form. Further information on who should complete each consent form is in 'How to use consent forms and statutory notices – for clinic staff' **on our website**.

You should not pre-complete consent forms on behalf of the person giving consent. If the person acknowledges that they want to provide consent but is, at the same time, unable to sign for themselves due to physical illness, injury or disability, someone else can complete the form on their behalf as long as it is signed at the direction of the person giving consent, in their presence and in the presence of at least one witness. However, if the person is consenting to being registered as the legal parent after their death, only they can sign the form.

The provisions of the Human Tissue Act 2004, which allow next of kin to provide consent to harvesting of other body tissues, do not apply to gametes. Only the gamete provider can provide effective consent to the use of gametes in treatment. Anyone who procures, stores or uses gametes without valid and effective consent from the gamete provider may be **committing an offence**. For information on the limited cases where consent is not required see the HFEA **Code of Practice** Guidance note 5: Consent to treatment, storage, donation, training and disclosure of information. Please note that these exceptions do not apply to cases where a person has died (including cases of brain stem death) without having prior effective consent to storage or use in place.

When do new forms need to be completed?

It is a clinic's legal responsibility to ensure that valid and effective consent is in place before treatment commences.

There will be some circumstances where you cannot rely on consent forms that were previously completed, and it will be necessary for your patient(s) and their partner(s) to complete new consent forms. To help establish whether this is necessary, you should discuss with them whether there have been any changes in their personal circumstances including:

- marital status ie, has the couple separated or divorced or become married to someone else since completing the first set of consent forms
- whether unmarried couples have since separated
- whether the patient is having treatment with a different partner from their previous round of treatment
- the health of the patient and partner (eg, whether or not they might since have developed a life-threatening condition and so may wish to reconsider giving consent to posthumous use)
- the death of the patient's partner
- whether or not the partner still wishes to go ahead with treatment, and
- changes to the type of treatment needed eg, the patient had Intrauterine insemination (IUI) previously and will now have In vitro fertilisation (IVF) or the patient will now use donor sperm.

You should emphasise to your patients that they should proactively contact you if their personal circumstances change, so that both you and the patient can consider whether consent previously given is still valid or needs to be withdrawn and new consent needs to be given.

Whilst we would expect clinics to require patients to sign new consent forms if a significant period of time has passed since their last treatment, we do not require patients to complete a new set of consent forms before their second or subsequent treatment cycles. However, it is very important for you to establish that any previously completed consent forms are still valid and effective. If it is not clinic practice to ask patients and their partners to complete new consent forms for subsequent treatment cycles, you must review, together with the patient, all of the consent forms (including legal parenthood forms) they previously completed to ensure that:

- the patient or partner's personal circumstances have not changed
- there were no errors in the original consent forms
- valid and effective consent is still in place before their treatment commences, and
- where gametes and embryos are in storage, that you have established the dates for the Consent and Renewal Periods so that you can request renewal of consent at the appropriate time(s).

You should also confirm that your patients were given an opportunity to have counselling and were provided with all relevant information prior to treatment. Once patients and their partners are undergoing treatment at your clinic, the legal responsibility for ensuring that valid and effective consent is in place for that treatment lies with you, not the clinic that took the original consent. Good practice would be for the receiving clinic to re-consent patients as this is the only way the treating clinic can be sure that the patient has been given all the necessary information and had an opportunity for counselling before giving their consent.

There is a further legal requirement where consent to legal parenthood is concerned. The law requires that the 'parenthood conditions' must be met in respect of treatment where the embryo transfer or insemination takes place. The parenthood conditions include that the consent to legal parenthood is given to the PR of the treating centre. Treating centres are therefore expected to obtain new legal parenthood consent forms if these were originally completed elsewhere. This means that legal parenthood consents must be re-completed (or completed if they have not previously been completed) if patients transfer clinics.

Different consent forms for different samples/material

There may be occasions where patients sign different consent forms pertaining to different batches of material, for example, if the material is stored at significantly different times or allocated to different partners (for example, in polyamorous relationships). In such cases, it should be made clear on the paperwork (or on the electronic consenting platforms) that this is the case and that new consent forms relate to new material and do not supersede the previous consent forms relating to different material for the same patient.

Which declarations should patients sign?

The information below applies to both paper and electronic consent forms.

Your patients should sign the page declaration on every page of the consent form to confirm they have read the page and agree fully with the consent and information given. On occasion, consent forms will instruct patients to go directly to the next section (eg, where a specific section does not apply to them) however this instruction should **not** be read as asking them to skip the page declarations. Patients should sign the declaration on every page even if that section does not apply to them.

Your patient will need to sign a final declaration on the last page of the consent form to declare that before they completed the form, they were given an opportunity to have counselling and received information about:

- the different options set out in the form,
- the implications of giving their consent, and
- how they can make changes to, or withdraw, their consent and the consequences of withdrawing their consent.

If you do not give patients this information before they fill in the form, their consent may be invalid. You should check that your patient has signed the page declarations, the final declaration and, where relevant, the section declarations, before accepting their consent forms.

You should also ensure that they have ticked any required boxes on forms, where relevant.

Before patients complete a form, you should ensure that they understand the importance of signing every page and after they have completed a form you should confirm that they have signed every declaration.

What can happen if the declaration is not signed?

A person completes the ED form to donate their embryos and ticks 'yes' at 2.2. After the embryos have been allocated for someone else's treatment, the clinic conducts an audit and reviews the ED form. They find that the donor did not select either 'yes' or 'no' at 3.1 and did not answer 3.2 or sign the page declaration. Because the donor did not sign the declaration, it is not clear whether the donor read this page. They cannot be contacted for clarification. There is a legal dispute between the recipient patient and clinic about the storage of the embryos.

Which consent forms should transgender people complete?

The majority of the standard HFEA forms are gender neutral so are suitable for all patients, including those who are transgender, non-binary or who have gender dysphoria. A small number of the standard HFEA forms are **not** gender neutral however these forms have a gender neutral equivalent in the separate suite of gender neutral forms. All forms are available on the **Clinic Portal.**

What guidance is there on electronic consent?

There is detailed guidance in Guidance note 5 of the **Code of Practice** regarding electronic methods of taking consent.

How can patients whose first language is not English or who have other communication difficulties be supported?

You should follow the guidance set out in our **Code of Practice** (Guidance note 5) and consider the needs of people whose first language is not English, and those who face other communication barriers. Where consent is obtained, the centre should record any difficulties in communicating the implications of giving consent and in providing other information to the person (eg, language barriers or hearing impairment) and an explanation of how these difficulties were overcome (eg, the use of an independent interpreter).

Where language is a problem in discussing health matters, **NHS England** and **NHS Scotland** guidance stipulate that a professional interpreter should always be offered, rather than using family or friends to interpret.

Working with professional interpreters will minimise the legal risk of misinterpretation of important clinical information (eg, informed consent to undergo clinical treatments and procedures).

Automated online translating systems or services, such as Google Translate, should be avoided in healthcare settings as there is no assurance of the quality of the translations.

How are the statutory notices used?

The amendments to the 1990 Act set out defined timeframes called the 'Renewal Period' and the 'Consent Period'. Clinics are required to issue notices to patients regarding the storage of their gametes or embryos at defined points before, during and after these periods.

The use of HFEA Statutory Notices is mandated by General Direction 0007. These notices have been carefully designed in a way that complies with the law and minimises the chances of making mistakes in the consenting process.

Detailed guidance on when to use these Statutory Notices can be found in the **HFEA Clinic Practical Guide.**

Important information about consent to legal parenthood

What is legal parenthood and why is consent to parenthood so important?

Legal parenthood means that someone is legally recognised as their child's parent. It affects a wide range of areas such as the child's nationality, inheritance and who has financial responsibility for the child. It is also important for a child to be clear who their legal parents are.

Clinics must ensure that HFEA parenthood consent forms are properly completed before licensed treatment is provided and that copies are retained in the patient's record and are also provided to the patient and partner.

The treating clinic must ensure that valid consents are in place. If the patient and the partner have moved clinics, the legal responsibility for ensuring that valid and effective consent is in place for that treatment lies with you, not the clinic that took the original consent. This means that legal parenthood consents must be re-completed (or completed if they have not previously been completed) if patients transfer clinics.

Meeting these requirements will ensure that the partner, who is not married or in a civil partnership with the patient when the couple are undertaking fertility treatment using donor sperm, can be the legal parent of any child born.

If consent forms are not properly completed, are not signed and dated correctly, are lost or are completed by the wrong person, the partner may not be legally recognised as the parent of the child(ren) born. Where mistakes with consent forms have been made or forms have been misplaced, some partners have needed to seek a declaration of parenthood in the family court for them to become the legal parent of their child.

What mistakes can affect the validity of legal parenthood?

The following are some examples of mistakes that may cast doubt on the parental status of the patient's unmarried partner:

- missing WP or PP forms ie, there is no record or only a partial record of the consent(s)
- WP or PP forms completed after treatment (ie, after egg, sperm or embryo transfer)
- WP or PP forms completed by the wrong person
- parts of the WP or PP forms are incomplete eg, boxes not ticked, signatures missing, page declarations missing, patient information is incomplete, the date of birth being entered instead of the date of signing, and
- patients and their partners were not given the required information or offered counselling before the consent was provided (before treatment).

It is important to note that a mistake in the consent process does not mean that a person will automatically be deprived of their status as legal parent. Additionally, the outcome of any particular case will be highly dependent upon the individual circumstances.

How can problems be avoided with legal parenthood consents?

All consents are important and should be recorded appropriately by trained members of staff, however, any mistake in consent to legal parenthood can have a devastating impact on families. As is the case for all consents, clinic procedures for taking informed consent to parenthood must be compliant with the HFE Act 1990 (as amended) and the Human Fertilisation and Embryology Act 2008. You should:

- ensure that you are clear about the marital status of the couple, whether they are legally married (**according to UK law)** or in a civil partnership with one another or if either one of them is married or in a civil partnership with any other person. You should record this in the patient notes. This may affect who will be the second legal parent of any child born following treatment and whether or not legal parenthood consent is required.
- ensure you provide your patients and their partners with the required information and opportunity for counselling before they consent
- allow enough dedicated time to provide information and counselling effectively and keep a record of the information and offer of counselling provided in the patient notes
- ensure your patients understand the implications of their consent
- the clinic should have a documented assurance process to ensure that the appropriate consent forms have been completed and that the completed forms contain the correct information, prior to treatment
- check consent is in place, valid and effective at each stage of a patient's treatment, and
- ensure forms are completed fully and stored correctly.

What should be done if an anomaly is discovered with legal parenthood consents?

If you have any doubt about the validity or effectiveness of legal parenthood consents you should seek your own legal advice. You should act in a way that promotes openness and honesty with your patients and must inform the affected patients and their partners at the earliest opportunity in a compassionate and supportive manner. The disclosure to a patient and their partner that the partner may not be the legal parent of their child may be unexpected, upsetting and shocking. Therefore, the clinic should consider the most appropriate way to break this news to the couple.

You should:

- fully disclose all relevant facts and documents related to the couples' case to them
- offer to financially support the patient(s) and their partner(s) to access legal advice
- provide the patient and their partner with all information as is necessary for the speedy resolution of their case if they choose to seek a declaration of parentage in the family court
- provide other support to the patient and their partner as appropriate, including counselling
- notify your HFEA inspector about what has happened and the clinic's approach, and
- report any anomaly as an adverse incident using the HFEA's incidents process.

What should be done in the case where patients move clinics?

It is the responsibility of the PR at the treating clinic to make sure that the relevant consents are in place, and this includes a duty to ensure that those who have given consent have been provided with the requisite, relevant information beforehand.

Important information about consent to legal parenthood

Where patients move clinics there is a legal requirement where consent to legal parenthood is concerned. The law requires that the ‘parenthood conditions’ must be met in respect of treatment where the embryo transfer or insemination takes place. The parenthood conditions include that the consent to legal parenthood is given to the PR of the treating centre. Treating centres are therefore expected to obtain new legal parenthood consent forms if these were originally completed elsewhere. This means that legal parenthood consents must be re-completed (or completed if they have not previously been completed) if patients transfer clinics.

Whilst other consent forms are not required in law to be re-completed good practice would be for the receiving clinic to re-consent patients as this is the only way the treating clinic can be sure that the patient has been given all the necessary information and had an opportunity for counselling before giving their consent.

MT form
Your consent to the use and storage of your sperm and embryos (IVF and ICSI)

Purpose of this form

By law (under the Act) your patient is required to give their written consent if they want their sperm, and embryos created using their sperm, to be used or stored eg, for IVF or ICSI treatment. If they are storing their sperm or embryos, they must also state in writing how long they consent to them remaining in storage.

Your patient is also legally required to record what they would like to happen to their sperm or embryos if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their sperm or embryos if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this – so you only use their sperm and embryos according to their wishes if this were to happen. Their sperm and embryos can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their sperm or embryos cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

Embryos may only be stored and used if the egg provider (their partner or egg donor) has also given their consent.

If your patient would like their partner to use their sperm or embryos in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their sperm or embryos in surrogacy after their death or loss of capacity may not be possible. You should discuss with your patient whether they wish for their sperm or embryos to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A patient and their partner have embryos in storage created with their own gametes. While completing the MT form, the patient tells the clinic that they would like for their partner to be able to use the embryos in treatment as part of a surrogacy arrangement if they were to die. However, the clinic does not prompt the couple to complete the additional consent forms, screening tests or counselling associated with surrogacy. The patient subsequently dies, and as they did not complete the required steps before their death, their partner cannot use their embryos in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store sperm or embryos beyond the Renewal Period (or, in the case of embryos, six months after the end of the Renewal Period) if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

Your patient should name their partner with whom they are having treatment in this section of the form.

Only the person named in this section will be able to use your patient's sperm or embryos if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient's sperm or embryos for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A patient is going through IVF treatment with their partner. They mentioned to the clinic that they would like their sperm to be used by their partner if they were to die, but they do not name their partner on the form. The patient subsequently dies. Their partner now wants to use the stored sperm for treatment purposes. However, because the patient did not name them on the form, the partner is unable to use the sperm in treatment.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient who is single consents to store their sperm before receiving cancer treatment on the GS form. They later marry and do not realise that they must return to the clinic to complete an MT form with their partner's name. They later die and because they did not fill out an MT form with their partner's name, their partner cannot use their sperm in treatment.

Section 3 – Your treatment

Your patient must provide consent for their sperm to be used to create embryos in vitro for their partner's treatment. They can do this by ticking the yes box at 3.1. The egg provider (their partner or egg donor) must also have given their consent for embryos to be created. If they have a partner who is consenting for their eggs to be used in treatment they should complete the WT form, which is the 'Your consent to your eggs and embryos created using your eggs being used in treatment (IVF and ICSI) or stored' form.

Section 4 – Storing sperm or embryos

If your patient wishes to store their sperm and/or embryos, they must tick the yes box at 4.1 and/or 4.2. They must also specify how long they want their sperm and/or embryos to be stored.

The law allows for sperm and embryos to be stored for use in the patient's own treatment for any period up to a **maximum of 55 years from the date(s) that the sperm or embryos are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of sperm or embryos for up to 10 years at a time (calculated from the date the sperm or embryos were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue. If consent is not renewed before the end of the renewal period, then consent is taken to be withdrawn.

Embryos can only be stored if the egg provider (their partner or egg donor) has also given their consent.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has embryos in storage; however, the patient's phone number, email address and home address have changed since they had treatment at the clinic. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's embryos must be removed from storage and disposed of.

Questions 4.3 and 4.4 relate to **additional storage** and should only be completed if the patient has already given initial consent for less than 10 years, or renewed their consent for less than 10 years, and now wishes to request an additional period of storage up to the end of the current Consent Period. For example, if a patient has given consent to store for an initial period of seven years, they cannot now consent for an **additional** 10 years. This is because they need to consent in 10-year blocks. Therefore, they would need to first consent for an **additional** three years. After this, they will need to **renew** their consent for a further 10 years if they wish for storage to continue.

If they have ticked yes for questions 4.3 and/or 4.4, the patient must indicate how long they want their additional period of storage to last. Any amount of time specified **will be in addition to** their existing storage period.

For example, if they consented to five years' storage and wish to consent for a further five years (10 years in total), they should state five years of storage (this is five years in addition to the five years they have

already consented to). You should make your patient aware that the period they consent to should not exceed 10 years (calculated from the date of first storage or the end of the most recent Consent Period) because they are required to renew their consent every 10 years in order for storage to continue.

What can happen if a patient wants to change their consent but fills out the form incorrectly?

A patient is undergoing treatment with their partner, and they complete the MT and WT forms. The patient completing the MT form initially consents to store the embryos for five years. However, at the end of five years the couple decide they want to continue to store the embryos. The patient returns to the clinic and now enters 10 years in the 'additional storage prior to renewal' section. Once five years have passed, the clinic contacts the patient to request that they renew their consent. Because the patient thinks they have given consent to 15 years total storage, they think the request does not apply to them and they ignore it. They do not realise that they need to renew their consent after each 10-year period. When they (with their partner) return for treatment, the embryos have been removed from storage and disposed of because consent was taken as withdrawn.

Section 5 – Using sperm or embryos for training

If your patient has sperm and/or embryos left after treatment which are not needed or are not suitable for treatment, they can consent to donate these for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes to 5.1 and/or 5.3. If they wish to donate their sperm or embryos for research purposes, they should sign a separate clinic-specific form.

If they tick yes to 5.1 and/or 5.3, they need to specify how long they consent for their sperm and/or embryos to be stored for training purposes in questions 5.2 and/or 5.4. The maximum amount of time they can store their sperm for training purposes is **55 years from the date(s) that the sperm is first placed in storage**. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on this form**.

Embryos can only be used for training purposes if the egg provider (their partner or egg donor) has also given their consent.

What can happen if the form is not completed correctly?

A patient wishes for their stored sperm to be used for training purposes after they no longer require it for treatment purposes, and they tick 5.1. The clinic conducts an audit and discover the patient has not specified a period of time they consent for their sperm to be stored for training purposes. Therefore, it is not clear what their wishes were at the time. The clinic attempts to contact the patient, but they are unable to do so. Therefore, the sperm is removed from storage and disposed of before it can be used for training.

Section 6 – In the event of your death

In this section, your patient should record whether they consent to:

- their partner (named in section 2 of this form) using their sperm and embryos in treatment in the event of their death
- the use of their sperm and embryos in training in the event of their death, and
- to the storage of their sperm and embryos for this purpose.

Use of sperm or embryos for treatment purposes in the event of death (questions 6.1 and 6.2)

If the patient consents to their sperm or embryos being used for treatment after their death, the law permits for their sperm or embryos to be stored for their named partner's use for a maximum of **10 years from the date of their death**. This is a cumulative 10-year period meaning that partners have 10 years total in which to create their embryos with their deceased partner's sperm and use them.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can consent to their sperm being used to create embryos outside the body, and for those embryos to be stored and used for their partner's treatment in question 6.1. If a patient ticks yes at 6.1, they need to indicate how long they consent to the storage of their sperm or embryos created after their death. The egg provider (their partner or egg donor) also needs to have given consent for embryos to be created, stored and used.

The patient can consent to their embryos created before their death being stored and used for their partner's treatment in question 6.2. If the patient ticks yes, they need to indicate how long they consent to the storage of their embryos created before their death. The egg provider (their partner or egg donor) also needs to have given consent for embryos to be stored and used.

Use of sperm or embryos for training purposes in the event of death (questions 6.3 and 6.4)

If your patient dies, they may have sperm or embryos that are not needed, or are not suitable, for their named partner's treatment. In questions 6.3 and 6.4, your patient can consent for the unused sperm or embryos being used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused sperm or embryos.

Sperm can be stored for training purposes for **up to 55 years from the date(s) of first storage** and embryos can be stored for training purposes for **up to 10 years from the date that the form is signed**. The egg provider (their partner or egg donor) also needs to have given consent for embryos to be stored and used for training purposes.

Section 7 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their sperm and embryos after their loss of capacity, **and/or**
- their partner (if named in section 2 of this form) using their sperm and embryos in treatment in the event of their mental incapacity.

Continued storage of their sperm and embryos after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their sperm or embryos may be available to be used in treatment.

Use and storage of sperm for treatment purposes in the event of loss of capacity (question 7.1)

At question 7.1 patients should record whether they wish for sperm to be only stored, stored and used, or neither in the event that they lose mental capacity. Patients who wish for their sperm to be used in treatment whilst they are mentally incapacitated should also record how long any embryos created from

that sperm after their loss of capacity may be stored (up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner).

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to question 7.2, remembering to sign the declaration on every page. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their sperm to be stored only) and option B (consent for their sperm to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use their sperm in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their sperm to be stored **but not** used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their sperm to be stored. Sperm can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who wish for their sperm to be stored **and** used to create embryos outside the body and for those embryos to be used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their sperm or embryos created with their sperm after their loss of capacity to be stored. Sperm or embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their sperm to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their sperm will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of embryos for treatment purposes in the event of loss of capacity (question 7.2)

At question 7.2 patients should record whether they wish for embryos created before their loss of capacity to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to section 8, remembering to sign the declaration on every page. They must not select more than one option.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **but not** used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish

for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **and** used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their embryos to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their embryos will need to be removed from storage and disposed of (unless they and the person whose eggs were used to create the embryos have consented to donation or training in these circumstances).

Use and storage of sperm or embryos for training purposes in the event of loss of capacity

Patients can consent to their sperm or embryos being used in training in the event that they lose mental capacity. The use of sperm or embryos for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their sperm or embryos to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their sperm or embryos being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their sperm or embryos in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to sperm or embryos being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to sperm or embryos being stored or stored and used after they lose capacity.
- Where sperm or embryos are not clinically viable for treatment.
- In the case of embryos, where the egg provider (their partner or egg donor) has withdrawn consent.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their sperm for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their sperm for training purposes, written consent was not provided and therefore the patient's sperm was removed from storage and disposed of once the 10-year storage period expired.

Other uses for your sperm or embryos if you die or become mentally incapacitated

If your patient wishes to consent for their sperm or embryos to be used in someone else's treatment (including in their partner's treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating your sperm' (MD form)
- 'Your consent to donating embryos' (ED form)
- 'Your consent to the use and storage of sperm or embryos for surrogacy' (MSG form).

Section 8 – Registration as legal parent after death

If the patient has given consent to their sperm or embryos being used after their death, they may also wish to consent to being registered as the legal parent of any child that is born as a result of their partner's treatment. This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. They can do this by ticking yes at 8.1. Registration will be subject to the birth mother electing, in writing, for the patient to be registered as the legal parent within 42 days of the birth of the child. For more information about this, the patient should seek their own legal advice.

Section 9 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

WT form
Your consent to the use and storage of your eggs and embryos (IVF and ICSI)

Purpose of this form

By law (under the Act) your patient is required to give their written consent if they want their eggs, and embryos created using their eggs, to be used or stored eg, for IVF or ICSI treatment. If they are storing their eggs or embryos, they must also state in writing how long they consent to them remaining in storage.

Your patient is also legally required to record what they would like to happen to their eggs or embryos if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their eggs or embryos if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their eggs and embryos according to their wishes if this were to happen. Their eggs and embryos can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their eggs or embryos cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

Embryos may only be stored and used if the sperm provider (their partner or sperm donor) has also given their consent.

If your patient would like their partner to use their eggs or embryos in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If the patient is in a same-sex relationship and they would like their partner to have the opportunity to use their eggs or embryos created using their eggs in treatment in the event of their death or loss of capacity, they do **not** need to complete a WPT form in addition to this form. A WPT form should be completed if the patient wants their partner to be able to use their eggs or embryos created with their eggs in treatment whilst they are alive and have mental capacity. The WPT form allows patients to give consent to provide their eggs or embryos for their partner's treatment.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their eggs or embryos in surrogacy after their death or loss of capacity may not be possible. You should discuss with your patient whether they wish for

their eggs or embryos to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A patient and their partner have embryos in storage created with their own gametes. While completing the WT form, the patient tells the clinic that they would like for their partner to be able to use the embryos in treatment as part of a surrogacy arrangement if they were to die. However, the clinic does not prompt the couple to complete the additional consent forms, screening tests or counselling associated with surrogacy. The patient subsequently dies, and as they did not complete the required steps before their death, their partner cannot use their embryos in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store eggs or embryos beyond the Renewal Period (or, in the case of embryos, six months after the end of the Renewal Period) if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

If your patient has a partner with whom they are having treatment they should name them in this section of the form.

Only the person named in this section will be able to use your patient's eggs or embryos if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient's eggs or embryos for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A patient is going through IVF treatment with their partner. They mentioned to the clinic that they would like their eggs to be used by their partner if they were to die, but they do not name their partner on the form. The patient subsequently dies. Their partner now wants to use the stored eggs for treatment purposes. However, because the patient did not name them on the form, the partner is unable to use the eggs in treatment.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient who is single consents to store their eggs before receiving cancer treatment on the GS form. They later marry and do not realise that they must return to the clinic to complete a WT form with their partner's name. They later die and because they did not fill out an WT form with their partner's name, their partner cannot use their eggs in treatment.

Section 3 – Your treatment

Your patient must provide consent for their eggs to be used to create embryos in vitro for their treatment. They can do this by ticking the yes box at 3.1. The sperm provider (their partner or sperm donor) must also have given their consent for embryos to be created. If they have a partner who is consenting for their sperm to be used in treatment they should complete the MT form, which is the 'Your consent to your sperm and embryos created outside the body using your sperm being used in treatment (IVF and ICSI) or stored' form.

Section 4 – Storing eggs or embryos

If your patient wishes to store their eggs and/or embryos, they must tick the yes box at 4.1 and/or 4.2. They must also specify how long they want their eggs and/or embryos to be stored.

The law allows for eggs and embryos to be stored for use in the patient's own treatment for any period up to a **maximum of 55 years from the date(s) that the eggs or embryos are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of eggs or embryos for up to 10 years at a time (calculated from the date the eggs or embryos were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue. If consent is not renewed before the end of the renewal period, then consent is taken to be withdrawn.

Embryos can only be stored if the sperm provider (their partner or sperm donor) has also given their consent.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has embryos in storage; however, the patient's phone number, email address and home address have changed since they had treatment at the clinic. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's embryos must be removed from storage and disposed of.

Questions 4.3 and 4.4 relate to **additional storage** and should only be completed if the patient has already given initial consent for less than 10 years, or renewed their consent for less than 10 years, and now wishes to request an additional period of storage up to the end of the current Consent Period. For

example, if a patient has given consent to store for an initial period of seven years, they cannot now consent for an **additional** 10 years. This is because they need to consent in 10-year blocks. Therefore, they would need to first consent for an **additional** three years. After this, they will need to **renew** their consent for a further 10 years if they wish for storage to continue.

If they have ticked yes for questions 4.3 and/or 4.4, the patient must indicate how long they want their additional period of storage to last. Any amount of time specified **will be in addition to** their existing storage period.

For example, if they consented to five years' storage and wish to consent for a further five years (10 years in total), they should state five years of storage (this is five years in addition to the five years they have already consented to). You should make your patient aware that the period they consent to should not exceed 10 years (calculated from the date of first storage or the end of the most recent Consent Period) because they are required to renew their consent every 10 years in order for storage to continue.

What can happen if a patient wants to change their consent but fills out the form incorrectly?

A patient who is single is undergoing treatment and they complete the WT form. They initially consent to store the embryos for five years. However, at the end of five years they decide they want to continue to store the embryos (the sperm donor has given consent to storage for the maximum 55-year period). The patient returns to the clinic and enters 10 years in the 'additional storage prior to renewal' section. Once five years have passed, the clinic contacts the patient to request that they renew their consent. Because the patient thinks they have given consent to 15 years total storage, they think the request does not apply to them and they ignore it. They do not realise that they need to renew their consent after each 10-year period. When they return for treatment, the embryos have been removed from storage and disposed of because consent was taken as withdrawn.

Section 5 – Using eggs or embryos for training

If your patient has eggs and/or embryos left after treatment which are not needed, or are not suitable, for treatment, they can consent to donate these for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes to 5.1 and/or 5.3. If they wish to donate their eggs or embryos for research purposes, they should sign a separate clinic-specific form.

If they tick yes to 5.1 and/or 5.3, they need to specify how long they consent for their eggs and/or embryos to be stored for training purposes in questions 5.2 and/or 5.4. The maximum amount of time they can store their eggs for training purposes is **55 years from the date(s) that the eggs are first placed in storage**. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on this form**.

Embryos can only be used for training purposes if the sperm provider (their partner or sperm donor) has also given their consent.

What can happen if the form is not completed correctly?

A patient wishes for their stored eggs to be used for training purposes after they no longer require them for treatment purposes, and they tick 5.1. The clinic conducts an audit and discover the patient has not specified a period of time they consent for their eggs to be stored for training purposes. Therefore, it is not clear what their wishes were at the time. The clinic attempts to contact the patient, but they are unable to do so. Therefore, the eggs are removed from storage and disposed of before they can be used for training.

Section 6 – In the event of your death

In this section, your patient should record whether they consent to:

- their partner (named in section 2 of this form) using their eggs and embryos in treatment in the event of their death
- the use of their eggs and embryos in training in the event of their death, and
- to the storage of their eggs and embryos for this purpose.

Use of eggs or embryos for treatment purposes in the event of death (questions 6.1 and 6.2)

If the patient consents to their eggs or embryos being used for treatment after their death, the law permits for their eggs or embryos to be stored for their named partner's use for a maximum of **10 years from the date of their death.** This is a cumulative 10-year period meaning that partners have 10 years total in which to create their embryos with their deceased partner's eggs and use them.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can consent to their eggs being used to create embryos outside the body, and for those embryos to be stored and used for their partner's treatment in question 6.1. If a patient ticks yes at 6.1, they need to indicate how long they consent to the storage of their eggs or embryos created after their death. The sperm provider (their partner or sperm donor) also needs to have given consent for embryos to be created, stored and used.

The patient can consent to their embryos created before their death being stored and used for their partner's treatment in question 6.2. If the patient ticks yes, they need to indicate how long they consent to the storage of these embryos after their death. The sperm provider (their partner or sperm donor) also needs to have given consent for embryos to be stored and used.

Use of eggs or embryos for training purposes in the event of death (questions 6.3 and 6.4)

If your patient dies, they may have eggs or embryos that are not needed, or are not suitable, for their named partner's treatment. In questions 6.3 and 6.4, your patient can consent for the unused eggs or embryos being used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused eggs or embryos.

Eggs can be stored for training purposes for **up to 55 years from the date(s) of first storage** and embryos can be stored for training purposes for **up to 10 years from the date that the form is signed**. The sperm provider (their partner or sperm donor) also needs to have given consent for embryos to be stored and used for training purposes.

Section 7 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their eggs and embryos after their loss of capacity, **and/or**
- their partner (if named in section 2 of this form) using their eggs and embryos in treatment in the event of their mental incapacity.

Continued storage of their eggs and embryos after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their eggs or embryos may be available to be used in treatment.

Use and storage of eggs for treatment purposes in the event of loss of capacity (question 7.1)

At question 7.1 patients should record whether they wish for eggs to be only stored, stored and used, or neither in the event that they lose mental capacity. Patients who wish for their eggs to be used in treatment whilst they are mentally incapacitated should also record how long any embryos created from those eggs after their loss of capacity may be stored (up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner).

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to question 7.2, remembering to sign the declaration on every page. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their eggs to be stored only) and option B (consent for their eggs to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use their eggs in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their eggs to be stored **but not** used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their eggs to be stored. Eggs can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who wish for their eggs to be stored **and** used to create embryos outside the body and for those embryos to be used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their eggs or embryos created with their eggs after their loss of capacity to be stored. Eggs and embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their eggs to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their eggs will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of embryos for treatment purposes in the event of loss of capacity (question 7.2)

At question 7.2 patients should record whether they wish for embryos created before their loss of capacity to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to section 8, remembering to sign the declaration on every page. They must not select more than one option.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **but not** used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **and** used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their embryos to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their embryos will need to be removed from storage and disposed of (unless they and the person whose sperm was used to create the embryos have consented to donation or training in these circumstances).

Use and storage of eggs or embryos for training purposes in the event of loss of capacity

Patients can consent to their eggs or embryos being used in training in the event that they lose mental capacity. The use of eggs or embryos for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their eggs or embryos to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their eggs or embryos being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their eggs or embryos in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to eggs or embryos being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to eggs or embryos being stored, or stored and used, after they lose capacity.
- Where eggs or embryos are not clinically viable for treatment.

- In the case of embryos, where the sperm provider (their partner or sperm donor) has withdrawn consent.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their eggs for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their eggs for training purposes, written consent was not provided and therefore the patient's eggs were removed from storage and disposed of once the 10-year storage period expired.

Other uses for your eggs or embryos if you die or become mentally incapacitated

If your patient wishes to consent for their eggs or embryos to be used in someone else's treatment (including in their partner's treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating your eggs' (WD form)
- 'Your consent to donating embryos' (ED form)
- 'Your consent to the use and storage of eggs or embryos for surrogacy' (WSG form).

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

WPT form
Your consent to providing eggs or embryos created with your eggs for your partner's treatment

Purpose of this form

By law (under the Act) your patient is required to give their written consent if they want their eggs or embryos (created in vitro using their eggs), to be used or stored eg, for IVF or ICSI treatment. If they are storing their eggs or embryos, they must also state in writing how long they consent to them remaining in storage.

Your patient is also legally required to record what they would like to happen to their eggs or embryos if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

This form is for patients who wish to provide eggs (for the creation of embryos) for the treatment of their partner, where their partner will carry the pregnancy. It can also be used for patients who are consenting for their embryos (created using their eggs), to be used in the treatment of their partner. This applies whether or not the patient and their partner are married or in a civil partnership.

If the egg provider is having treatment using their own eggs and wishes for their eggs or embryos created using their eggs to be used in their partner's treatment **only** in the event of their death or mental incapacity, they should complete the WT form.

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their eggs or embryos if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their eggs and embryos according to their wishes if this were to happen. Their eggs and embryos can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their eggs or embryos cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

Embryos may only be stored and used if the sperm provider also given their consent.

If your patient would like their partner to use their eggs or embryos in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their eggs or embryos in surrogacy after their death or loss of capacity may not be possible. You should discuss with your patient whether they wish for their eggs or embryos to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A patient and their partner have embryos in storage created with their own gametes. While completing the WPT form, the patient tells the clinic that they would like for their partner to be able to use the embryos in treatment as part of a surrogacy arrangement if they were to die. However, the clinic does not prompt the couple to complete the additional consent forms, screening tests or counselling associated with surrogacy. The patient subsequently dies, and as they did not complete the required steps before their death, their partner cannot use their embryos in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store eggs or embryos beyond the Renewal Period (or, in the case of embryos, six months after the end of the Renewal Period) if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

Your patient should name their partner with whom they are having treatment in this section of the form.

Only the person named in this section will be able to use your patient's eggs or embryos if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient's eggs or embryos for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A patient is going through IVF treatment with their partner. They mentioned to the clinic that they would like their eggs to be used by their partner if they were to die, but they do not name their partner on the form. The patient subsequently dies. Their partner now wants to use the stored eggs for treatment purposes. However, because the patient did not name them on the form, the partner is unable to use the eggs in treatment.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient completes the WPT form to have treatment with their partner and they consent to store their eggs and embryos created with their eggs. They later separate from their partner, and they marry a new partner. They do not realise that they must return to the clinic to amend their consent, ie, to include their new partner's name. They subsequently die and because they did not amend their consent to include their new partner's name, their new partner cannot use their eggs or embryos in treatment, but their ex-partner may still be able to do so.

Section 3 – Your partner's treatment

The egg provider should complete 3.1 if they are consenting for their eggs to be used by their partner for the creation of embryos. Patients should complete 3.2 if they are consenting for their embryos already created with their eggs to be used in the treatment of their partner. The sperm provider must also give their consent for embryos to be created, stored and used.

Section 4 – Storing eggs or embryos

If your patient wishes to store their eggs and/or embryos, they must tick the yes box at 4.1 and/or 4.2. They must also specify how long they want their eggs and/or embryos to be stored.

The law allows for eggs and embryos to be stored for use in the patient's own treatment (or the treatment of the patient and their partner together) for any period up to a **maximum of 55 years from the date(s) that the eggs or embryos are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of eggs or embryos for up to 10 years at a time (calculated from the date the eggs or embryos were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue. If consent is not renewed before the end of the renewal period, then consent is taken to be withdrawn.

Embryos can only be stored if the sperm provider has also given their consent.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has embryos in storage; however, the patient's phone number, email address and home address have changed since they had treatment at the clinic. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's embryos must be removed from storage and disposed of.

Questions 4.3 and 4.4 relate to **additional storage** and should only be completed if the patient has already given initial consent for less than 10 years, or renewed their consent for less than 10 years, and now wishes to request additional period of storage up to the end of the current Consent Period. For example, if a patient has given consent to store for an initial period of seven years, they cannot now

consent for an **additional** 10 years. This is because they need to consent in 10-year blocks. Therefore, they would need to first consent for an **additional** three years. After this, they will need to **renew** their consent for a further 10 years if they wish for storage to continue.

If they have ticked yes for questions 4.3 and/or 4.4, the patient must indicate how long they want their additional period of storage to last. Any amount of time specified **will be in addition to** their existing storage period.

For example, if they consented to five years' storage and wish to consent for a further five years (10 years in total), they should state five years of storage (this is five years in addition to the five years they have already consented to). You should make your patient aware that the period they consent to should not exceed 10 years (calculated from the date of first storage or the end of the most recent Consent Period) because they are required to renew their consent every 10 years in order for storage to continue.

What can happen if a patient wants to change their consent but fills out the form incorrectly?

A patient and their partner are undergoing treatment. The patient initially consents to store the embryos for five years. However, at the end of five years they decide they want to continue to store the embryos (the sperm donor has given consent to storage for the maximum 55-year period). The patient returns to the clinic and enters 10 years in the 'additional storage prior to renewal' section. Once five years have passed, the clinic contacts the patient to request that they renew their consent. Because the patient thinks they have given consent to 15 years total storage, they think the request does not apply to them and they ignore it. They do not realise that they need to renew their consent after each 10-year period. When they return for treatment, the embryos have been removed from storage and disposed of because consent was taken as withdrawn.

Section 5 – Using eggs or embryos for training

If your patient has eggs and/or embryos left after treatment which are not needed, or are not suitable, for treatment, they can consent to donate these for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes to 5.1 and/or 5.3. If they wish to donate their eggs or embryos for research purposes, they should sign a separate clinic-specific form.

If they tick yes to 5.1 and/or 5.3, they need to specify how long they consent for their eggs and/or embryos to be stored for training purposes in questions 5.2 and/or 5.4. The maximum amount of time they can store their eggs for training purposes is **55 years from the date(s) that the eggs are first placed in storage**. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on this form**.

Embryos can only be used for training purposes if the sperm provider has also given their consent.

What can happen if the form is not completed correctly?

A patient wishes for their stored eggs to be used for training purposes after they no longer require them for treatment purposes, and they tick 5.1. The clinic conducts an audit and discover the patient has not specified a period of time they consent for their eggs to be stored for training purposes. Therefore, it is not clear what their wishes were at the time. The clinic attempts to contact the patient, but they are unable to do so. Therefore, the eggs are removed from storage and disposed of before they can be used for training.

Section 6 – In the event of your death

In this section, your patient should record whether they consent to:

- their partner (named in section 2 of this form) using their eggs and embryos in treatment in the event of their death
- the use of their eggs and embryos in training in the event of their death, and
- to the storage of their eggs and embryos for this purpose.

Use of eggs or embryos for treatment purposes in the event of death (questions 6.1 and 6.2)

If the patient consents to their eggs or embryos being used for treatment after their death, the law permits their eggs or embryos to be stored for their named partner's use for a maximum of **10 years from the date of their death**. This is a cumulative 10-year period meaning that partners have 10 years total in which to create their embryos with their deceased partner's eggs and use them.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can consent to their eggs being used to create embryos outside the body, and for those embryos to be stored and used for their partner's treatment in question 6.1. If a patient ticks yes at 6.1, they need to indicate how long they consent to the storage of their eggs after their death. The sperm provider also needs to have given consent for embryos to be created, stored and used.

The patient can consent to their embryos being stored and used for their partner's treatment in question 6.2. If the patient ticks yes, they need to indicate how long they consent to the storage of these embryos after their death. The sperm provider also needs to have given consent for embryos to be stored and used.

Use of eggs or embryos for training purposes in the event of death (questions 6.3 and 6.4)

If your patient dies, they may have eggs or embryos that are not needed, or are not suitable, for their named partner's treatment. In questions 6.3 and 6.4, your patient can consent for the unused eggs or embryos being used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused eggs or embryos.

Eggs can be stored for training purposes for **up to 55 years from the date(s) of first storage** and embryos can be stored for training purposes for **up to 10 years from the date that the form is signed**. The sperm provider needs to have given consent for embryos to be stored and used for training purposes.

Section 7 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their eggs and embryos after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their eggs and embryos in treatment in the event of their mental incapacity.

Continued storage of their eggs and embryos after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their eggs or embryos may be available to be used in treatment.

Use and storage of eggs for treatment purposes in the event of loss of capacity (question 7.1)

At question 7.1 patients should record whether they wish for their eggs to be only stored, stored and used, or neither in the event they lose mental capacity. Patients who wish for their eggs to be used in treatment whilst they are mentally incapacitated should also record how long any embryos created from those eggs after their loss of capacity may be stored (up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner).

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to question 7.2, remembering to sign the declaration on every page. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their eggs to be stored only) and option B (consent for their eggs to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use their eggs in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their eggs to be stored **but not** used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their eggs to be stored. Eggs can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who wish for their eggs to be stored **and** used to create embryos outside the body and for those embryos to be used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their eggs or embryos created with their eggs after their loss of capacity to be stored. Eggs and embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their eggs to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their eggs will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of embryos for treatment purposes in the event of loss of capacity (question 7.2)

At question 7.2 patients should record whether they wish for embryos created before their loss of capacity to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to section 8, remembering to sign the declaration on every page. They must not select more than one option.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **but not** used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **and** used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their embryos to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their embryos will need to be removed from storage and disposed of (unless they and the person whose sperm were used to create the embryos have consented to donation or training in these circumstances).

Use and storage of eggs or embryos for training purposes in the event of loss of capacity

Patients can consent to their eggs or embryos being used in training in the event that they lose mental capacity. The use of eggs or embryos for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their eggs or embryos to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their eggs or embryos being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their eggs or embryos in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to eggs or embryos being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to eggs or embryos being stored, or stored and used, after they lose capacity.
- Where eggs or embryos are not clinically viable for treatment.
- In the case of embryos, where the sperm provider has withdrawn consent.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their eggs for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their eggs for training purposes, written consent was not provided and therefore the patient's eggs were removed from storage and disposed of once the 10-year storage period expired.

Other uses for your eggs or embryos if you die or become mentally incapacitated

If your patient wishes to consent for their eggs or embryos being used in someone else's treatment (other than their partner but including their partner's treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, the screening tests that will be required, and the lifelong implications of donation.

Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating your eggs' (WD form)
- 'Your consent to donating embryos' (ED form)
- 'Your consent to the use and storage of eggs or embryos for surrogacy' (WSG form).

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

GS form
Your consent to the storage of your eggs or sperm

Purpose of this form

By law (under the Act) your patient needs to give their written consent if they want their eggs or sperm to be stored. They must also state in writing how long they consent to their eggs or sperm remaining in storage.

This form allows your patient to consent to storage only. If they want to consent to use their eggs or sperm in treatment, someone else's treatment (eg, donation or surrogacy), training or research, they must also complete an additional form.

It is also important to note that this form should not be used if the patient already has a partner with whom they wish to have treatment or if they wish to consent to treatment as a single patient immediately (eg, using their own eggs and donor sperm). Prior to 1 July 2022, patients wishing to store eggs, sperm or embryos and have treatment (eg, IVF or ICSI) using those eggs, sperm or embryos needed to complete both the GS and a separate treatment form. Following 1 July 2022, the treatment forms were amended to record consent to both treatment **and** to storage. There is no need for patients wishing both to have treatment and to store to complete a GS in addition to the relevant treatment form – doing so creates a risk of error, for example if different storage periods are entered inadvertently.

What can happen if a GS form is completed in addition to a treatment form?

A patient who is single wishes to store their eggs. The clinic prompt them to complete the GS form to consent to storage. They later marry and they complete the WT form when they are having treatment with their partner. On the GS form, they consented to store their eggs for a period of six years and on the WT form they consent to store for a period of five years. The clinic does not explain to the patient that the consent given on the WT form supersedes the consent given on the GS form. The patient and their partner return to the clinic after six years (as that is what the patient understood the duration of their consent to be) to undergo treatment with the stored eggs. However, as the patient consented to a storage period of only five years on the WT form, the eggs were removed from storage and disposed of. This situation would have been avoided if the clinic had ensured that the latest form completed by the patient had superseded any previously completed consent form and informed the patient of this too.

Important information about death and loss of capacity

Your patient is legally required to record what they would like to happen to their eggs or sperm if they were to die or lose the ability to decide for themselves (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this so you only store and use their eggs or sperm according to their wishes if this were to happen. Their eggs or sperm can only be stored and used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences.

Clinics can only store sperm or eggs beyond the Renewal Period if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – Storing eggs or sperm

Your patient must provide consent for their eggs or sperm to be stored. They can do this by ticking the yes box at 2.1.

If your patient ticks yes at 2.1 they must also specify how long they want their eggs or sperm to be stored. They can do this in question 2.2.

The law allows for eggs or sperm to be stored for use in the patient's treatment for any period up to a **maximum of 55 years from the date(s) that the eggs or sperm are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of eggs or sperm for 10 years at a time (calculated from the date the eggs or sperm were first placed in storage or the end of the previous Consent Period) after which they will need to renew their consent if they wish for storage to continue. If consent is not renewed before the end of the renewal period, then consent is taken to be withdrawn.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has sperm in storage; however, the patient's phone number, email address and home address have changed since they had treatment at the clinic. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's sperm must be removed from storage and disposed of.

Question 2.3 relates to **additional storage** and should only be completed if the patient has already given initial consent for less than 10 years, or renewed their consent for less than 10 years, and now wishes to request an additional period of storage up to the end of the current Consent Period. For example, if a patient has given consent to store for an initial period of seven years, they cannot now consent for an **additional** 10 years. This is because they need to consent in 10-year blocks. Therefore, they would need to first consent for an **additional** three years. After this, they will need to **renew** their consent for a further 10 years if they wish for storage to continue.

If they have ticked yes for question 2.3, the patient must indicate how long they want their additional period of storage to last. Any amount of time specified **will be in addition to** their existing storage period.

For example, if they consented to five years' storage and wish to consent for a further five years (10 years in total), they should state five years of storage (this is five years in addition to the five years they have already consented to). You should make your patient aware that the period they consent to should not exceed 10 years (calculated from the date of first storage or the end of the most recent Consent Period) because they are required to renew their consent every 10 years in order for storage to continue.

What can happen if a patient wants to change their consent but fills out the form incorrectly?

A patient is storing their eggs. They initially consent to store the eggs for five years. However, at the end of five years they decide they want to continue to store their eggs. The patient returns to the clinic, and they enter 10 years in the 'additional storage prior to renewal' section. Once five years have passed, the clinic contacts the patient to request that they renew their consent. Because they think they have given consent to 15 years total storage, they think that the request does not apply to them, and they ignore it. They do not realise that they need to renew their consent after each 10-year period. When they return for treatment, the eggs have been removed from storage and disposed of because consent was taken as withdrawn.

Section 3 – Using eggs or sperm for training

If your patient has eggs or sperm left after treatment which are not needed or are not suitable for treatment, they can consent to donate their eggs or sperm for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes to 3.1. If they wish to donate their eggs or sperm for research purposes, they should sign a separate clinic-specific form.

They also need to specify how long they consent for their eggs or sperm to be stored for training purposes. The maximum amount of time they can store their eggs or sperm for training purposes is **55 years from the date(s) that the eggs or sperm are first placed in storage**. They can specify how long they want their eggs or sperm to be stored for training purposes in question 3.1.

What can happen if the form is not completed correctly?

A patient wishes for their stored eggs to be used for training purposes after they no longer require them for treatment purposes, and they tick 5.1. The clinic conducts an audit and discover the patient has not specified a period of time they consent for their eggs to be stored for training purposes. Therefore, it is not clear what their wishes were at the time. The clinic attempts to contact the patient, but they are unable to do so. Therefore, the eggs are removed from storage and disposed of before they can be used for training.

Section 4 – In the event of your death

Your patient is legally required to record what they would like to happen to their eggs or sperm if they were to die. If they do not give their consent, their eggs or sperm must be removed from storage and disposed of.

If your patient dies, your patient can consent for the unused eggs or sperm being used for training purposes. They can do this by ticking yes in question 4.1. If they tick yes, they need to indicate how long they consent for storage of their unused eggs or sperm.

Eggs and sperm can be stored for training purposes for **up to 55 years from the date(s) of first storage.**

If they want their eggs or sperm to be used by their partner or another person in the event of their death, a different form needs to be completed.

Section 5 – In the event of your mental incapacity

In this section, your patient should record whether they consent to the continued storage of their eggs or sperm after their loss of capacity. Then, in the event the patient regains capacity, their eggs or sperm may be available to be used in treatment. They would need to complete a different form once they regain capacity for treatment to take place.

Storage of eggs or sperm for treatment purposes in the event of loss of capacity (question 5.1)

At question 5.1 patients should record whether they wish for their eggs or sperm to be stored in the event that they lose mental capacity.

If they want their eggs or sperm to be used by their partner or another person in the event of their loss of capacity, a different form needs to be completed.

Your patient should select **either** option A **or** option B. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their eggs to be stored) and option B (for their eggs to be removed from storage if they lose capacity) on the form. They subsequently lose mental capacity. However, as they selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their eggs or sperm to be stored can consent to this by selecting option A. They should then record how long they wish for their eggs or sperm to be stored. Eggs and sperm can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their eggs or sperm to be stored in the event of their mental incapacity should select option B. This will mean that if they lose capacity, their eggs or sperm will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of eggs or sperm for training purposes in the event of loss of capacity

Patients can consent to their eggs or sperm being used in training in the event that they lose mental capacity. The use of eggs or sperm for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their eggs or sperm to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a

patient consents to their eggs or sperm being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their eggs or sperm in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to eggs or sperm being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to eggs or sperm being stored or stored and used after they lose capacity.
- Where eggs or sperm are not clinically viable for treatment.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their eggs for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their eggs for training purposes, written consent was not provided and therefore the patient's eggs were removed from storage and disposed of once the 10-year storage period expired.

Other uses for your eggs or sperm if you die or become mentally incapacitated

You should discuss with your patient what they would like to happen to their eggs or sperm in the event of their death or if they become mentally incapacitated. Your patient can store their eggs or sperm if they die or become mentally incapacitated for the purposes of donation to another person’s treatment, for treatment of a named partner (including that partner’s treatment with a surrogate), or for training or research purposes. Those storing eggs or sperm should complete either the WD or MD form if they wish to donate their eggs or sperm to someone else’s treatment in the event of their death or mental incapacity. If they wish for their partner to be able to use their eggs or sperm in treatment in the event of their death they will need to complete the appropriate treatment and storage and/or surrogacy form. Additional screening would also be required in the event of surrogacy.

What can happen if the appropriate forms are not completed?

A patient wishes to donate their eggs to their sister's treatment in the event of their death or mental incapacity and they state this to the clinic. The patient completes the GS form. However, the patient was not prompted to complete a WD form. The patient subsequently dies, and their sister now wants to use their stored eggs for treatment purposes. As a WD form was not completed, the patient's sister cannot use the stored eggs for treatment purposes.

Section 6 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plans?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

ET(PH) form
Your consent to the creation of embryos (IVF and ICSI) with your deceased partner's eggs or sperm that fall under the 2024 Regulations or to storage of those embryos for up to 55 years

Purpose of this form

By law (under the Act) your patient needs to give their written consent if they want their embryos to be stored. They must also state in writing how long they consent to their embryos remaining in storage.

This form must only be used for patients who are creating or storing embryos that fall under **the Health and Care Act 2022 (Storage of Gametes and Embryos) (Transitional Provision) Regulations 2024** ('the 2024 Regulations'). For more information, please see the Clinic Practical Guide on legal changes to storage limits and guidance.

The 2024 Regulations apply to a small cohort of patients who are able to store eggs, sperm and embryos for up to 55 years from the date of egg or sperm storage without needing to renew consent. Before allocating this consent form to patients, you must make an assessment and confirm that this form is suitable for them based on the requirements set out in law. Guidance on how to make this assessment is available in the Clinic Practical Guide on legal changes to storage limits and guidance.

On this consent form, the surviving partner can consent to create embryos using their deceased partner's gametes, or to store those embryos for up to 55 years without needing to renew consent. In order for eggs or sperm to be used in the surviving partner's treatment, before their death their deceased partner must have given consent to:

- the use of their eggs or sperm to create embryos, and
- to use of those embryos in treatment, and to storage for later use for more than 10 years.

They **must** also have named the surviving partner (the person who is completing this consent form) as their partner.

If the person completing this form wants to consent to store their own eggs or sperm for use in future treatment, they should use another form ('Your consent to the storage of your eggs or sperm' (the GS)).

What can happen if this consent form is completed by someone who does not meet all the relevant criteria?

A patient comes to the clinic to create embryos for treatment using the stored sperm of their partner who died before 1 July 2022. Neither the patient or their deceased partner met the criteria for premature infertility under the 2009 Regulations and so before 1 July 2022 the sperm was being stored for 10 years under the 1990 Act. The deceased partner consented to the maximum 10-year period that applied before the 2022 storage laws were introduced on 1 July 2022. This means that the stored sperm does **not** fall under the 2024 Regulations.

The clinic issue the patient the ET(PH) form. The patient completes the form and consents to store the embryos created with their eggs and their deceased partner's sperm for the maximum 55-year period, calculated from the date the sperm was placed in storage.

At a later audit, the clinic realise their mistake and attempt to contact the patient to make them aware that they have significantly less time to store their embryos than anticipated. The clinic are unable to make contact with the patient and the embryos must be disposed of once they can no longer lawfully be stored.

The patient later returns for treatment to find their embryos have been disposed of.

Consent to storage and use in surrogacy

The purpose of this consent form is to record the surviving partner's consent to creation and storage of embryos for use in their own treatment, including in treatment with a surrogate. If a surrogacy arrangement is required, the patient **must also complete the appropriate HFEA surrogacy form** (the WSG or MSG) to consent to **treatment** with a surrogate. For this to happen the deceased partner must also (before their death) have consented to use of their embryos in surrogacy and have undergone appropriate screening.

Because this specific cohort of patients do **not** need to renew their consent every 10 years, they should consent to treatment only and **not** to storage on the surrogacy form. Consent to **storage** is recorded on the ET(PH) form.

The sections of the WSG or MSG forms these patients should complete are as follows:

- Section 1: 'About you'
- Section 2: 'About the surrogate (if known at the time of consent)'
- Section 3: 'Your partner's details' – to be completed with the name of their deceased partner whose gametes were used to create the embryo.
- Section 4: 'About the surrogacy arrangement'
- Patients must also sign the declaration at the end of the form **and** the declaration on each page of the consent form.

The clinic should ensure that **no other sections of the WSG or MSG form are completed**. The patient should also complete the ET(PH) form in line with their wishes.

What can happen if the patient completing this form completes the surrogacy form incorrectly?

A patient comes to the clinic for treatment using the stored eggs of their deceased partner, who died before 1 July 2022. The stored eggs fall under the 2024 Regulations.

Before they died, the deceased partner gave consent to treatment with a surrogate in the event of their death (and underwent the relevant screening). They gave consent to store for the maximum 55-year period.

The clinic issue the surviving partner the ET(PH) form. The surviving partner completes the form and consents to store the embryos created with their sperm and their deceased partner's eggs for the maximum 55-year period, calculated from the date the eggs were placed in storage.

The surviving partner wishes to use the embryos in a surrogacy arrangement so the clinic also issue the correct surrogacy form to the patient – the MSG. However, the clinic does not provide the surviving partner with sufficient support to complete the form correctly. The patient completes the whole form rather than just the relevant sections - including section 5 – 'Storing sperm and embryos'. In section 5, the surviving partner gives consent to store embryos for the maximum 10-year period permitted on that form, after which a renewal of consent would be required.

However, because the embryos fall under the 2024 Regulations the patient is legally allowed to give consent to storage for up to 55 years without needing to renew consent.

After the end of the 10-year period, the clinic refer to the incorrectly completed MSG form and believe that the surviving partner needs to renew their consent for storage to continue. They contact the surviving partner who thinks the request does not apply to them and ignores it.

After consent is taken as withdrawn the clinic dispose of the embryos. At a later audit, the clinic realise their mistake and that embryos have been disposed of while effective consent was still in place.

Medical Practitioner's Statement (MPS)

It is vitally important that clinics obtain a statement of premature infertility from a registered medical practitioner ('MPS') within the timeframes required by law for patients completing the ET(PH). This must be done every 10 years for storage to continue. Please see the **Clinic Practical Guide on legal changes to storage limits and guidance** for information about when each MPS should be obtained.

Important information about the consent of the deceased partner

Embryos must always be used and stored in line with the consent given by both gamete providers. For example, embryos cannot be stored for longer than the period each gamete provider gives consent to.

Clinics should take this into account as they guide the surviving partner to complete this form correctly. As the other gamete provider (the deceased partner) has died, it will not be possible for them to vary their consent (eg, to consent to a longer period of storage). This means it is very important that the person completing this form is given all relevant information about what their partner gave consent to before their death. This may include information about:

- The period of storage they gave consent to, which may have been shorter than the legal maximum.
- Whether they gave consent to use of their embryos in surrogacy.
- Whether they gave consent to use of their embryos in training, research or to donation for use in someone else's treatment.

What can happen if the clinic does not provide correct information about what the deceased partner consented to before their death?

A patient comes to the clinic for treatment using the stored sperm of their deceased partner, who died before 1 July 2022. The stored sperm falls under the 2024 Regulations so the surviving partner completes the ET(PH) form to consent to creation and storage of embryos.

Before their death, the deceased partner gave consent to 15 years of storage for their sperm and any embryos created. That was in 2015. This means the embryos can be stored until 2030 (the surviving partner cannot extend this storage period). However the clinic incorrectly inform the patient that their deceased partner gave consent to store for the maximum 55 year storage period (until 2070). The patient consents to 55 years of storage on this form.

At a later audit, the clinic realise their mistake and attempt to contact the patient to make them aware that they have significantly less time to store their embryos than anticipated. The clinic are unable to make contact with the patient and the embryos must be disposed of once the sperm provider's consent has expired.

The patient returns for treatment in 2032 to find their embryos have been disposed of.

Important information about death and loss of capacity

Your patient is legally required to record what they would like to happen to their embryos if they were to die or lose the ability to decide for themselves (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this so you only store and use their embryos according to their wishes if this were to happen. Their embryos can only be stored and used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences.

For patients completing this form, the options available to them were they to die or lose capacity will depend on what their deceased partner gave consent to before their death (please see above). For example, whether their deceased partner consented to use of the embryos in training or research.

On this form patients have the option to consent to continued storage of their embryos for up to 10 years were they to lose mental capacity. The clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. It will be particularly important for patients completing this form to nominate someone (eg, a relative or friend) to inform the clinic in these circumstances, since their partner has died. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Because the embryos are created with the eggs or sperm of their deceased partner, it will not be possible for the patient to consent to someone else (eg, a new partner) using the embryos in treatment in the event of their death **unless** they wish to donate the embryos. For this to happen their deceased partner **must** have also given consent to donation before their death (and undergone the relevant screening tests).

Patients who stored embryos between 1 July 2022 – 9 May 2024

Some embryos that fall under the 2024 Regulations may have been created and placed into storage by the surviving partner between 1 July 2022 – 9 May 2024. In other words, after the 2022 storage laws

came into force but before the 2024 Regulations came into force. If the surviving partner who created the embryos completed a new treatment and storage consent form during this time, they will have given consent to storage of the embryos for a maximum of 10 years (after which renewal of consent is needed). These surviving partners can use the ET(PH) form to consent to a longer period of storage under the 2024 Regulations.

To do so, patients should complete the ET(PH) form as set out in this guidance. In section 4 – storing embryos, they should indicate the period of storage they wish to give consent. **This period should be calculated from the date that the eggs or sperm (whichever were placed in storage first) were first placed in storage.** The consent they give on the ET(PH) form will supersede the consent given on their previous HFEA consent form.

For example:

- A surviving partner creates and stores embryos with their deceased partner's sperm (meeting the 2024 Regulations) and their own eggs on 7 December 2022. The deceased patient gave consent to 30 years of storage under the 2009 Regulations. At the time the embryos are created, the surviving partner gives consent on the WT form to store the embryos for 10 years (from the date the embryos are first stored), the maximum period permitted on that form.
- After the 2024 Regulations come into force, the clinic contact the surviving partner to let them know that that they can give consent to a longer period of storage if they wish.
- On 14 October 2024, the surviving partner completes the ET(PH) form. The surviving partner wishes for the embryos to be stored for the maximum possible period, which is limited by the period of storage that the deceased patient gave consent to. To do this, the surviving partner ticks 'yes' at 4.1 and enters '30' years at 4.2. This period is calculated from the date their partner's sperm was stored (since that was placed into storage first). This replaces the period of storage they gave consent to on the WT.
- The consent given on the ET(PH) supersedes the previous WT form. The clinic should retain the patient's completed WT for record-keeping purposes. The clinic must also obtain each MPS within the timeframes set out in law in order for storage to continue.

Section 2 – About your deceased partner

Your patient should name their partner, whose eggs or sperm they are using to create embryos, in this section of the form. In order to meet the requirements of the 2024 Regulations, this person must have died **before** 1 July 2022 – see the Clinic Practical Guide on legal changes to storage limits and guidance for more information.

Section 3 – Your treatment

Your patient must provide consent for their eggs or sperm to be used to create embryos in vitro for their treatment (this includes where they are giving consent to treatment with a surrogate). They can do this by ticking the yes box at 3.1. The deceased partner (who provided the eggs or sperm) must also have given their consent before their death for embryos to be created.

Section 4 – Storing embryos

Your patient must provide consent for their embryos to be stored. They can do this by ticking the yes box at 4.1.

If your patient ticks yes at 4.1 they must also specify how long they want their embryos to be stored. They can do this in question 4.2.

For patients completing this form, because the eggs or sperm used to create the embryos fall under the 2024 Regulations, the law allows for their embryos to be stored for use in the patient's treatment (including treatment with a surrogate) for any period up to a **maximum of 55 years from the date(s) that the eggs or sperm used to create them were first placed in storage**. In the event that both eggs and sperm were stored before treatment, this period should be calculated from the date that whichever gametes used to create the embryo were placed in storage **first.** You should make your patient aware that the period of storage they consent to should not exceed whatever period of storage their partner gave consent to before their death (up to a maximum of 55 years).

Patients do not need to renew consent to storage of these embryos.

You should ensure that patients are aware of the date that their storage period is calculated from. If a patient does not know when the period of storage for their embryos is calculated from, they won't know when it ends. You should make it very clear when the period of storage they have given consent to ends and record it in the patient's notes.

Patients cannot use this form to consent to storage of eggs or sperm. They will need to use the appropriate HFEA consent form for this purpose (and they **will** need to renew consent if they wish to store **eggs or sperm** for more than 10 years).

What can happen if the patient is not aware of when their period of storage is calculated from?

A patient uses the ET(PH) form to consent to creation and storage of embryos that fall under the 2024 Regulations. Their deceased partner placed their eggs in storage in 2015 and gave consent to the maximum 55 years of embryo storage. The patient completing this form gives consent to store the embryos for 10 years. This period is calculated from the date their deceased partner's eggs were placed in storage.

In 2025 (10 years after the deceased partner's eggs were placed in storage) the clinic's bring-forward system notifies them that the surviving partner's consent is coming to an end. They contact the surviving partner to notify them that the period of storage they have given consent to is ending and to give them an opportunity to give additional consent to storage. Because the patient thinks the 10 year storage period they gave consent to is calculated from the date they signed the ET(PH) form, they think that the request does not apply to them, and they ignore it. When they return for treatment, the embryos have been removed from storage and disposed of because their consent had expired.

You should inform the patient that the clinic will contact them at the appropriate time to notify them that their consent is coming to an end. If they gave consent to less than the maximum period they can amend their consent to store for a longer period. To do this, the patient should complete a new ET(PH) form. In section 4 the patient should tick yes at 4.1, and enter the new, total period of storage calculated from the date that whichever gametes used to create the embryo were placed in storage first. They should complete the whole ET(PH) form in line with their wishes, including signing the declaration on every page. This new ET(PH) will supersede the previous form.

It will not be possible to consent to a longer period of storage if they have reached the end of the maximum 55-year period, or whatever period their partner gave consent to, if shorter.

In either case, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances so that you can notify them as the end of their storage period approaches.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient uses the ET(PH) form to consent to creation and storage of embryos created with gametes that fall under the 2024 Regulations. Their deceased partner gave consent to 20 years of storage. The patient gives consent to 10 years of storage. The clinic does not inform the patient that they should keep their contact details up to date. Towards the end of this period, the clinic contacts the patient to inform them that they are approaching the end of the period of storage that they consented to, and they can choose to consent to a longer period of storage. However, the patient's phone number, email address and home address have changed since they had treatment at the clinic. As their contact details have changed, the clinic cannot get in touch with the patient. The period of storage the patient gave consent to ends and the clinic have not been able to make contact and so the patient cannot give consent to additional storage. The embryos must be removed from storage and disposed of before the patient can be notified.

Section 5 – Using embryos for training

If your patient has embryos left after treatment which are not needed or are not suitable for treatment, they may be able to consent to donate their embryos for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. Whether or not this is possible will depend on what their partner gave consent to before their death. If their partner did not consent to their embryos being used in training, this will not be possible. If it is possible, they can give consent by ticking yes to 5.1. If they wish to donate their embryos for research purposes, they should sign a separate clinic-specific form. Again, whether this is possible depends on what their partner gave consent to before their death.

If they tick yes to 5.1 they need to specify how long they consent for their embryos to be stored for training purposes in question 5.2. The maximum amount of time they can store their embryos for training purposes is **10 years from the date that consent is given on this form**. However this storage period cannot exceed the period that the deceased partner gave consent to before their death.

Section 6 – In the event of your death

Your patient is legally required to record what they would like to happen to their embryos if they were to die. If they do not give their consent, their embryos must be removed from storage and disposed of.

If your patient dies, they may be able to consent to the unused embryos being used for training purposes. Whether or not this is possible will depend on what their partner gave consent to before their death. If their partner did not consent to their embryos being used in training, this will not be possible. If it is possible, they can do this by ticking yes in question 6.1. If they wish to donate their embryos for research purposes, they should sign a separate clinic-specific form. Again, whether this is possible depends on what their partner gave consent to before their death.

If the patient and their deceased partner give consent for embryos being used for training purposes, the embryos can be stored for this purpose for the duration of storage indicated at section 4. This storage period cannot exceed the period that the deceased partner gave consent to before their death.

It is not possible for the person completing this form to name a new partner who can use the embryos in treatment in the event of their death. This is because the embryos are created with the eggs or sperm of their deceased partner, who has named the person completing this form as the only person who may use those eggs or sperm in treatment.

Section 7 – In the event of your mental incapacity

In this section, your patient should record whether they consent to the continued storage of their embryos after their loss of capacity. Then, in the event the patient regains capacity, their embryos may be available to be used in treatment. On this form, they may also be able to consent to their embryos instead being stored and used for training purposes depending on what their deceased partner gave consent to before their death. If they give consent to this, their embryos will not be available for treatment in the event they regain capacity.

Patients completing this form should select 'yes' at **either** option A **or** option B. They should **not** select 'yes' for both.

To give consent to **continued storage** in the event of their mental incapacity, patients should tick 'yes' at 7.1A. If patients select this option, the embryos can be stored for the duration of storage indicated at section 4. This storage period cannot exceed the period that the deceased partner gave consent to before their death.

To give **consent to storage and use for training purposes** in the event of their mental incapacity, patients should tick 'yes' at 7.1B. If patients select this option, the embryos can be stored for the duration of storage indicated at section 4. This storage period cannot exceed the period that the deceased partner gave consent to before their death.

It is **not** appropriate for patients completing this form to also complete the MIT form to give consent to storage and use of embryos for training purposes in the event of their death. This is because different laws relating to storage of embryos apply to these patients.

It is not possible for the person completing this form to name a new partner who can use the embryos in treatment in the event of their mental incapacity. This is because the embryos are created with the eggs or sperm of their deceased partner, who has named the person completing this form as the only person who may use those eggs or sperm in treatment.

Other uses for your embryos if you die or become mentally incapacitated

You should discuss with your patient what they would like to happen to their embryos in the event of their death or if they become mentally incapacitated. As set out above, it is very important that you make the patient aware that the possible uses for their embryos will depend on what their deceased partner gave consent to before their death. If the deceased partner gave consent, your patient can store their embryos if they die or become mentally incapacitated for the purposes of donation to another person's treatment, or for training or research purposes. Those storing embryos should complete the ED form if they wish to donate their embryos to someone else's treatment in the event of their death or mental incapacity. If the patient and their deceased partner have both given consent to donate embryos for use in someone else's treatment, appropriate screening must have taken place for both gamete providers (including the deceased partner) before their death.

However, it is not possible for the embryos to be used in another person's treatment **not for donation** (eg, a new partner's) in the event of death or mental incapacity. This is because the embryos are created with the eggs or sperm of their deceased partner, who has named the person completing this form as the only person who may use those eggs or sperm in treatment.

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plans?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

MGI form
Your consent to the use of your sperm in artificial insemination

Purpose of this form

By law (under the Act) your patient is required to give their written consent if they want their sperm to be used in fertility treatment or stored for later use. If they are storing their sperm, they must also state in writing how long they consent to it remaining in storage.

Your patient is also legally required to record what they would like to happen to their sperm if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their sperm if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their sperm according to their wishes if this were to happen. Their sperm can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their sperm cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

If your patient would like their partner to use their sperm in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If your patient wishes for their partner to be able to use their sperm to create embryos outside the body (IVF or ICSI) in the event that they die or lose mental capacity, you should give the patient the relevant information, offer counselling and prompt them to complete additional consent forms (the MT form).

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their sperm in surrogacy after their death or loss of capacity may not be possible. You should discuss with your patient whether they wish for their sperm to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the right forms are not completed?

A patient has sperm in storage intended to be used in treatment with their partner. They complete an MGI form on which they consent for their partner to use their sperm in IUI treatment if they were to die. They are aware that IUI treatment may not work, so they would also like to consent for their partner to be able to use their sperm in IVF treatment. However, the clinic does not prompt them to complete an MT form to consent for this to happen. The patient subsequently dies. Their partner now wants to use the stored sperm in IVF treatment as IUI has not worked for them. They cannot do this as no MT form was completed.

Clinics can only store sperm beyond the Renewal Period if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

Your patient should name their partner with whom they are having treatment in this section of the form.

Only the person named in this section will be able to use your patient's sperm if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient's sperm for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A patient is undergoing treatment with their partner, and they wish to store some sperm so that their partner could use their sperm in treatment if they were to die. However, they do not name their partner on the form. The patient subsequently dies. The partner now wants to use the stored sperm for treatment purposes. However, because the patient did not name their partner on the form, the partner is unable to use the stored sperm in treatment.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient who is single consents to store their sperm before receiving cancer treatment on the GS form. They later marry and do not realise that they must return to the clinic to complete an MGI form with their partner's name. They later die and because they did not fill out an MGI form with their partner's name, their partner cannot use their sperm in treatment.

Section 3 – Your treatment

Your patient must provide their consent for their sperm to be used in their partner's treatment without the creation of embryos outside the body (eg, using artificial insemination). They can do this by ticking the yes box at 3.1.

Section 4 – Using sperm for training

If your patient has sperm left after treatment which is not needed, or is not suitable, for treatment they can consent to donate these for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes at 4.1. If they wish to donate their sperm for research purposes, they should sign a separate clinic-specific form.

If they tick yes at 4.1, they also need to specify how long they consent for their sperm to be stored for training purposes. The maximum amount of time they can store their sperm for training purposes is **55 years from the date(s) that the sperm is first placed in storage**.

What can happen if the form is not completed correctly?

A patient wishes for their stored sperm to be used for training purposes after they no longer require it for treatment purposes, and they tick 4.1. The clinic conducts an audit and discover the patient has not specified a period of time they consent for their sperm to be stored for training purposes. Therefore, it is not clear what their wishes were at the time. The clinic attempts to contact the patient, but they are unable to do so. Therefore, the sperm is removed from storage and disposed of before it can be used for training.

Section 5 – Storing sperm

If your patient wishes to store their sperm, they must tick the yes box at 5.1. They must also specify how long they want their sperm to be stored.

The law allows for sperm to be stored for use in the patient's own treatment for any period up to a maximum of **55 years from the date(s) that the sperm is first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of sperm for up to 10 years at a time (calculated from the date the sperm was first placed in storage or the end of the previous Consent Period) after which they will need to renew their consent if they wish for storage to continue. If consent is not renewed before the end of the renewal period, then consent is taken to be withdrawn.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has sperm in storage; however, the patient's phone number, email address and home address have changed since they had treatment at the clinic. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's sperm must be removed from storage and disposed of.

Question 5.2 relates to **additional storage** and should only be completed if the patient has already given initial consent for less than 10 years, or renewed their consent for less than 10 years, and now wishes to request an additional period of storage up to the end of the current Consent Period. For example, if a patient has given consent to store for an initial period of seven years, they cannot now consent for an **additional** 10 years. This is because they need to consent in 10-year blocks. Therefore, they would need to first consent for an **additional** three years. After this, they will need to **renew** their consent for a further 10 years if they wish for storage to continue.

If they have ticked yes for question 5.2, the patient must indicate how long they want their additional period of storage to last. Any amount of time specified **will be in addition to** their existing storage period.

For example, if they consented to five years' storage and wish to consent for a further five years (10 years in total), they should state five years of storage (this is five years in addition to the five years they have already consented to). You should make your patient aware that the period they consent to should not exceed 10 years (calculated from the date of first storage or the end of the most recent Consent Period) because they are required to renew their consent every 10 years in order for storage to continue.

What can happen if a patient wants to change their consent but fills out the form incorrectly?

A patient is undergoing treatment with their partner and the patient completes the MGI form. They initially consent to store their sperm for five years. However, at the end of five years, they decide they want to continue to store their sperm. The patient returns to the clinic, and they enter 10 years in the 'additional storage prior to renewal' section. Once five years have passed, the clinic contacts the patient to request that they renew their consent. Because the patient thinks that they have given consent to 15 years total storage, they think that the request does not apply to them, and they ignore it. They do not realise that they need to renew their consent after each 10-year period. When the couple returns for treatment, the sperm have been removed from storage and disposed of because consent was taken as withdrawn.

Section 6 – In the event of your death

In this section, your patient should record whether they consent to:

- their partner (named in section 2 of this form) using their sperm in treatment without the creation of embryos outside the body in the event of their death
- the use of their sperm in training in the event of their death, and
- to the storage of their sperm for these purposes.

Use of sperm for treatment purposes in the event of death (question 6.1)

If the patient consents to their sperm being used for treatment after their death, the law permits for their sperm to be stored for their named partner's use for **10 years from the date of their death**.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can consent to their sperm being used, or stored for use, in their partner's treatment without the creation of embryos outside the body in question 6.1. If a patient ticks yes at 6.1, they need to indicate how long they consent to the storage of their sperm after their death.

Use of sperm for training purposes in the event of death (question 6.2)

If your patient dies, they may have sperm that is not needed, or is not suitable, for treatment of their named partner. In question 6.2, your patient can consent for the unused sperm being used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused sperm.

Sperm can be stored for training purposes for **up to 55 years from the date(s) of first storage**.

Section 7 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their sperm after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their sperm in treatment in the event of their mental incapacity.

Continued storage of their sperm after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their sperm may be available to be used in treatment.

Use and storage of sperm for treatment purposes in the event of loss of capacity (question 7.1)

At question 7.1 patients should record whether they wish for sperm to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their sperm to be stored only) and option B (consent for their sperm to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use their sperm in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their sperm to be stored **but not** used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their sperm to be stored. Sperm can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who wish for their sperm to be stored **and** used in their named partner's treatment without the creation of embryos outside the body whilst they have lost capacity can consent to this by selecting option B. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their sperm to be stored after their loss of capacity. Sperm can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their sperm to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their sperm will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of sperm for training purposes in the event of loss of capacity

Patients can consent to their sperm being used in training in the event that they lose mental capacity. The use of sperm for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their sperm to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their sperm being used in training, it may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their sperm in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to sperm being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to sperm being stored or stored and used after they lose capacity.
- Where sperm are not clinically viable for treatment.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their sperm for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their sperm for training purposes, written consent was not provided and therefore the patient's sperm was removed from storage and disposed of once the 10-year storage period expired.

Other uses for your sperm if you die or become mentally incapacitated

If your patient wishes to consent for their sperm to be used for someone else’s treatment (including in their partner’s treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. They may also want their sperm to be used in a different type of treatment, such as for IVF or ICSI, or for surrogacy. Depending on their situation, they will also need to complete one of the following consent forms:

- ‘Your consent to your sperm and embryos created outside the body using your sperm being used in treatment (IVF and ICSI) or stored’ (MT form)

- ‘Your consent to donating your sperm’ (MD form)
- ‘Your consent to the use and storage of sperm or embryos for surrogacy’ (MSG form)
- ‘Your consent to donating embryos’ (ED form).

Section 8 – Registration as legal parent after death

If the patient has given consent to their sperm being used after their death, they may also wish to consent to being registered as the legal parent of any child that is born as a result of their partner’s treatment. This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. They can do this by ticking yes at 8.1. Registration will be subject to the birth mother electing, in writing, for the patient to be registered as the legal parent within 42 days of the birth of the child. For more information about this, the patient should seek their own legal advice.

Section 9 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient’s consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient’s attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

WGI form
Your consent to the use of your eggs in GIFT

Purpose of this form

By law (under the Act), your patient is required to give their written consent if they want their eggs to be used in fertility treatment or stored for later use. If they are storing their eggs, they must also state in writing how long they consent to them remaining in storage.

Your patient is also legally required to record what they would like to happen to their eggs if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their eggs if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their eggs according to their wishes if this were to happen. Their eggs can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their eggs cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

If your patient would like their partner to use their eggs in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If your patient wishes for their partner to be able to use their eggs to create embryos outside the body (IVF or ICSI) in the event that they die or lose mental capacity, you should give the patient the relevant information, offer counselling and prompt them to complete additional consent forms (the WT form).

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their eggs in surrogacy after their death or loss of capacity may not be possible. You should discuss with your patient whether they wish for their eggs to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the right forms are not completed?

A patient has eggs in storage intended to be used in treatment with their partner. They complete a WGI form on which they consent for their partner to use their eggs in GIFT treatment if they were to die. They are aware that GIFT treatment may not work, so they would also like to consent for their partner to be able to use their eggs in IVF treatment. However, the clinic does not prompt them to complete a WT form to consent for this to happen. The patient subsequently dies. Their partner now wants to use the stored eggs in IVF treatment as GIFT has not worked for them. They cannot do this as no WT form was completed.

Clinics can only store eggs beyond the Renewal Period if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

If your patient has a partner with whom they are having treatment they should name them in this section of the form.

Only the person named in this section will be able to use your patient's eggs if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient's eggs for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A patient is undergoing treatment with their partner, and they wish to store some eggs so that their partner could use their eggs in treatment if they were to die. However, they do not name their partner on the form. The patient subsequently dies. The partner now wants to use the stored eggs for treatment purposes. However, because the patient did not name their partner on the form, the partner is unable to use the stored eggs in treatment.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient who is single consents to store their eggs before receiving cancer treatment on the GS form. They later marry and do not realise that they must return to the clinic to complete a WGI form with their partner's name. They later die and because they did not fill out a WGI form with their partner's name, their partner cannot use their eggs in treatment.

Section 3 – Your treatment

Your patient must provide their consent for their eggs to be used in their treatment without the creation of embryos outside the body (ie, using GIFT). They can do this by ticking the yes box at 3.1.

Section 4 – Using eggs for training

If your patient has eggs left after treatment which are not needed, or are not suitable for, treatment they can consent to donate these for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes at 4.1. If they wish to donate their eggs for research purposes, they should sign a separate clinic-specific form.

If they tick yes at 4.1, they also need to specify how long they consent for their eggs to be stored for training purposes. The maximum amount of time they can store their eggs for training purposes is **55 years from the date(s) that the eggs are first placed in storage**.

What can happen if the form is not completed correctly?

A patient wishes for their stored eggs to be used for training purposes after they no longer require them for treatment purposes, and they tick 4.1. The clinic conducts an audit and discovers the patient has not specified a period of time they consent for their eggs to be stored for training purposes. Therefore, it is not clear what their wishes were at the time. The clinic attempts to contact the patient, but they are unable to do so. Therefore, the eggs are removed from storage and disposed of before they can be used for training.

Section 5 – Storing eggs

If your patient wishes to store their eggs, they must tick the yes box at 5.1. They must also specify how long they want their eggs to be stored.

The law allows for eggs to be stored for use in the patient's own treatment for any period up to a maximum of **55 years from the date(s) that the eggs are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of eggs for up to 10 years at a time (calculated from the date the eggs were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue. If consent is not renewed before the end of the renewal period, then consent is taken to be withdrawn.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has eggs in storage; however, the patient's phone number, email address and home address have changed since they had treatment at the clinic. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's eggs must be removed from storage and disposed of.

Question 5.2 relates to **additional storage** and should only be completed if the patient has already given initial consent for less than 10 years, or renewed their consent for less than 10 years, and now wishes to request an additional period of storage up to the end of the current Consent Period. For example, if a patient has given consent to store for an initial period of seven years, they cannot now consent for an **additional** 10 years. This is because they need to consent in 10-year blocks. Therefore, they would need to first consent for an **additional** three years. After this, they will need to **renew** their consent for a further 10 years if they wish for storage to continue.

If they have ticked yes for question 5.2, the patient must indicate how long they want their additional period of storage to last. Any amount of time specified **will be in addition to** their existing storage period.

For example, if they consented to five years' storage and wish to consent for a further five years (10 years in total), they should state five years of storage (this is five years in addition to the five years they have already consented to). You should make your patient aware that the period they consent to should not exceed 10 years (calculated from the date of first storage or the end of the most recent Consent Period) because they are required to renew their consent every 10 years in order for storage to continue.

What can happen if a patient wants to change their consent but fills out the form incorrectly?

A patient is undergoing treatment, and they complete the WGI form. They initially consent to store their eggs for five years. However, at the end of five years they decide that they want to continue to store the eggs. The patient returns to the clinic and enter 10 years in the 'additional storage prior to renewal' section. Once five years have passed, the clinic contacts the patient to request that they renew their consent. Because the patient thinks they have given consent to 15 years total storage, they think that the request does not apply to them, and they ignore it. They do not realise that they need to renew their consent after each 10-year period. When they return for treatment, the eggs have been removed from storage and disposed of because consent was taken as withdrawn.

Section 6 – In the event of your death

In this section, your patient should record whether they consent to:

- their partner (named in section 2 of this form) using their eggs in treatment without the creation of embryos outside the body in the event of their death
- the use of their eggs in training in the event of their death, and
- the storage of their eggs for these purposes.

Use of eggs for treatment purposes in the event of death (question 6.1)

If the patient consents to their eggs being used for treatment after their death, the law permits for their eggs to be stored for their named partner's use for **10 years from the date of their death**.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can consent to their eggs being used, or stored for use, in their partner's treatment without the creation of embryos outside the body in question 6.1. If a patient ticks yes at 6.1, they need to indicate how long they consent to the storage of their eggs after their death.

Use of eggs for training purposes in the event of death (question 6.2)

If your patient dies, they may have eggs that are not needed, or are not suitable, for treatment of their named partner. In question 6.2, your patient can consent for the unused eggs being used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused eggs.

Eggs can be stored for training purposes for **up to 55 years from the date(s) of first storage**.

Section 7 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their eggs after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their eggs in treatment in the event of their mental incapacity.

Continued storage of their eggs after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their eggs may be available to be used in treatment.

Use and storage of eggs for treatment purposes in the event of loss of capacity (question 7.1)

At question 7.1 patients should record whether they wish for eggs to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their eggs to be stored only) and option B (consent for their eggs to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use their eggs in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their eggs to be stored but not used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their eggs to be stored. Eggs can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who wish for their eggs to be stored **and** used in their named partner's treatment without the creation of embryos outside the body whilst they have lost capacity can consent to this by selecting option B. Only patients with a named partner should select this option. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their eggs to be stored after their loss of capacity. Eggs can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their eggs to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their eggs will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of eggs for training purposes in the event of loss of capacity

Patients can consent to their eggs being used in training in the event that they lose mental capacity. The use of eggs for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their eggs to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their eggs being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their eggs in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to eggs being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to eggs being stored or stored and used after they lose capacity.
- Where eggs are not clinically viable for treatment.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their eggs for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their eggs for training purposes, written consent was not provided and therefore the patient's eggs were removed from storage and disposed of once the 10-year storage period expired.

Other uses for your eggs if you die or become mentally incapacitated

If your patient wishes to consent for their eggs to be used for someone else's treatment (including in their partner's treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. They may also want their eggs to be used in a different type of treatment, such as for IVF or ICSI, or for surrogacy. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to your eggs and embryos created using your eggs being used in treatment (IVF and ICSI) or stored' (WT form)
- 'Your consent to providing eggs or embryos created with your eggs for your partner's treatment' (WPT form)
- 'Your consent to donating your eggs' (WD form)
- 'Your consent to the use and storage of eggs or embryos for surrogacy' (WSG form)

- ‘Your consent to donating embryos’ (ED form).

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient’s consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient’s attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

RE form
Renewal of consent to storage of your embryos for treatment

Purpose of this form

By law (under the Act), your patient is required to renew their consent every 10 years if they wish to continue to store their embryos for their, or their partner's, treatment (eg, for IVF or ICSI), including with a surrogate if applicable. This form should only be used as part of the renewal of consent process, in conjunction with HFEA Statutory Notices. This form should not be used to give additional consent if a patient consents to a storage period less than 10 years.

Your patient is also legally required to record what they would like to happen to their embryos if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

For patients to be able to renew their consent to the storage of their embryos, you must send the relevant statutory notice(s) to patients whose eggs or sperm were used to create the embryo(s) in question at specific times during storage. If they would like to renew their consent, they must complete this form. If they do not complete and return this form to record their renewal of consent, then their consent is taken as withdrawn and their embryos must be removed from storage and disposed of when storage is no longer lawful.

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their embryos if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their embryos according to their wishes if this were to happen. Their embryos can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their embryos cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

Embryos may only be stored and used if both the egg and sperm provider (their partner or donor) have given their consent.

If your patient would like their partner to use their embryos in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient’s death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their embryos in surrogacy after their death or loss

of capacity may not be possible. You should discuss with your patient whether they wish for their embryos to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A couple have embryos in storage created using their own eggs and sperm. When it is time to renew consent, they tell the clinic that they would like the sperm provider to be able to use the embryos in treatment with a surrogate if the egg provider were to die. The clinic prompt them to state this on the RE form but do not discuss the additional consent forms, screening tests and counselling related to surrogacy that would be required. The egg provider subsequently dies. As the necessary steps were not taken before death, the sperm provider cannot use their embryos in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store embryos six months after the end of the Renewal Period if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the ‘Record of information provided before obtaining consent’. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

If your patient is having treatment with a partner, their partner should be named in this section of the form.

Only the person named in this section will be able to use your patient’s embryos if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient’s embryos for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A couple have embryos in treatment created with one partner's sperm and donor eggs. The sperm provider consents to the renewal of storage for the embryos at the appropriate time, but they do not name their partner on the RE form. The sperm provider subsequently dies. Their partner now wants to use the stored embryos for treatment purposes. However, because the sperm provider did not name them on the form, they are unable to use the embryos in treatment.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient is storing embryos created with their eggs and donor sperm before receiving cancer treatment. By the time they renew consent, they have met a partner, and they enter their partner's name on the RE form. They later separate from their partner and do not realise that they must return to the clinic to amend their consent, ie, to remove their partner's name. They later die and because they did not amend their consent to remove their partner's name, their partner can still use their embryos in treatment, even though they may not have wished for this to happen.

Section 3 – Renewal of consent to storage for your own treatment

You must write the date(s) that the patient's consent to the storage of their embryos ends (ie, the end of their Consent Period). There may be multiple dates, depending on when the embryo(s) were placed in storage. You should urge the patient to complete this form by the **earliest date** written. If their consent is not renewed, then it is taken to be withdrawn and then 12 months after the date(s) written, the patient's embryo(s) will be removed from storage and disposed of.

If your patient wishes to renew their consent to store their embryos for use in their, or their partner's, treatment (including with a surrogate), they can do so by ticking the yes box in question 3.1. If they tick yes, they must also specify how long they want their embryos to be stored.

The law allows for embryos to be stored for use in the patient's own treatment for any period up to a **maximum of 55 years from the date(s) that the embryos are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of embryos for up to 10 years at a time (calculated from the date the embryos were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue.

Embryos can only be stored if both the sperm and the egg provider (their partner or donor) have given their consent.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent before their next Consent Period ends. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has embryos in storage; however, the patient's phone number, email address and home address have changed since they last renewed their consent. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's embryos must be removed from storage and disposed of, as at the end of the Renewal Period if consent is not renewed, it is taken to be withdrawn.

Section 4 – Withdrawing your consent to the storage of your embryos

If the patient does not wish to renew consent, at question 4.1, they can instead withdraw their consent to the storage of their embryos. They can withdraw their consent for these embryos to be stored for **any**

purpose (option A) or they can withdraw their consent for these embryos to be stored for treatment purposes and instead consent for them to be used for **training purposes** (option B).

It should be noted that if your patient withdraws their consent to the storage of embryos, if the other egg or sperm provider (their partner or donor) does not want to withdraw their consent to the storage of embryos, then the embryos may remain in storage for up to 12 months after your patient withdraws their consent. You can read more about this in the **Code of Practice** guidance note 17 – Storage of gametes and embryos.

If the patient ticks option B in question 4.1, then they need to specify how long they consent to their embryos being stored for training purposes in question 4.2. They cannot consent to use for training purposes without also consenting to storage for training purposes. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on this form**.

Embryos can only be used for training purposes if both the sperm and the egg provider (their partner or donor) have given their consent.

If your patient completes section 4, they should not complete sections 5, 6 and 7. Instead they should go straight to the declaration in section 8, remembering to sign the declaration on every page.

Section 5 – In the event of your death

If the patient has previously given consent to the use of their embryos for their partner's treatment (including with a surrogate) in the event of their death, then the consent given on this form will replace their previous consent.

Your patient is legally required to record what they would like to happen to their embryos if they were to die. If they do not give their consent, their embryos must be removed from storage and disposed of if this were to happen and cannot be used in treatment.

The embryos may only be stored and used within the storage period they have consented to and if both the egg and sperm provider (their partner or donor) have given their consent.

If they would like their partner to use their embryos in the event of their death, their partner should be named on this form. You should remind your patient that if their circumstances change (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment) after they have completed this consent form, they must contact the clinic to complete a new consent form that reflects their current wishes.

Use of embryos for treatment purposes in the event of death (question 5.1)

If the patient consents to their embryos being used for treatment after their death, the law permits for their embryos to be stored for their named partner's use for **10 years from the date of their death**.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can consent to embryos being stored and used for their partner's treatment in question 5.1. If a patient ticks yes at 5.1, they need to indicate how long they consent to the storage of their embryos after their death. The embryos may only be stored and used after your patient's death if both the egg and sperm provider (their partner or donor) have given their consent.

Use of embryos for training purposes in the event of death (question 5.2)

If your patient dies, they may have unused embryos that are not needed, or are not suitable, for their named partner's treatment. In question 5.2, your patient can consent for the unused embryos to be used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused embryos.

Embryos can be stored for training purposes for **up to 10 years from the date that the form is signed**. The embryos may only be stored and used after your patient's death if both the egg and sperm provider (their partner or donor) have given their consent.

Section 6 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their embryos after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their embryos in treatment in the event of their mental incapacity.

Continued storage of their embryos after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their embryos may be available to be used in treatment.

Use and storage of embryos for treatment purposes in the event of loss of capacity (question 6.1)

At question 6.1 patients should record whether they wish for their embryos to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their embryos to be stored only) and option B (consent for their embryos to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use the stored embryos in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **but not** used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **and** used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. Depending on their circumstances (eg,

where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their embryos to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their embryos will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of embryos for training purposes in the event of loss of capacity

Patients can consent to their embryos being used in training in the event that they lose mental capacity. The use of embryos for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their embryos to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their embryos being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their embryos in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to embryos being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to embryos being stored or stored and used after they lose capacity.
- Where embryos are not clinically viable for treatment.
- Where the other egg or sperm provider (their partner or donor) has withdrawn consent.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their embryos for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their embryos for training purposes, written consent was not provided and therefore the patient's embryos were removed from storage and disposed of once the 10-year storage period expired.

Other uses for your embryos if you die or become mentally incapacitated

When your patient renews their consent, you should ensure that if they have changed their mind about what they would like to happen to their embryos were they to die or to lose capacity to decide for themselves that this has been recorded on the appropriate consent forms. If your patient wishes to

consent for their embryos to be used in someone else's treatment (including their partner's treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating embryos' (ED form)
- 'Your consent to the use and storage of sperm or embryos for surrogacy' (MSG form)
- 'Your consent to the use and storage of eggs or embryos for surrogacy' (WSG form).

Section 7 - Registration as legal parent after death

If the patient has given consent to their embryos created outside the body with their **sperm** being used after their death, they may also wish to consent to being registered as the legal parent of any child that is born as a result of their partner's treatment. This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. They can do this by ticking yes at 7.1. Registration will be subject to the birth mother electing, in writing, for the patient to be registered as the legal parent within 42 days of the birth of the child. For more information about this, the patient should seek their own legal advice.

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

RG form
Renewal of consent to storage of your eggs or sperm for treatment

Purpose of this form

By law (under the Act), your patient is required to renew their consent every 10 years if they wish to continue to store their eggs or sperm for their, or their partner's, treatment (eg, for IVF or ICSI), including with a surrogate if applicable. This form should only be used as part of the renewal of consent process, in conjunction with HFEA Statutory Notices. This form should not be used to give additional consent if a patient consents to a storage period less than 10 years.

Your patient is also legally required to record what they would like to happen to their eggs or sperm if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

For patients to be able to renew their consent to the storage of their eggs or sperm, you must send the patient the relevant statutory notice(s) at specific times during storage. If they would like to renew their consent, they must complete this form. If they do not complete and return this form to record their renewal of consent, then their consent is taken as withdrawn and their eggs or sperm must be removed from storage and disposed of when storage is no longer lawful.

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their eggs or sperm if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their eggs or sperm according to their wishes if this were to happen. Their eggs or sperm can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their eggs or sperm cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

If your patient would like their partner to use their eggs or sperm in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient’s death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their eggs or sperm in surrogacy after their death or loss of capacity may not be possible. You should discuss with your patient whether they wish for their eggs or sperm to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A patient stored sperm before undergoing cancer treatment and completed the GS form as they were single. When it is time to renew their consent, they have met a partner. The patient completes the RG form and tells the clinic that they would like for their partner to be able to use their sperm in a surrogacy arrangement if they were to die. The clinic prompt them to state this on the RG form. However, the clinic does not prompt them to complete additional consent forms or other necessary steps related to surrogacy. The sperm provider subsequently dies. As the necessary steps were not completed before the death of the patient, their partner can no longer use the stored sperm in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store sperm or eggs beyond the Renewal Period if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

Your patient should name their partner with whom they are having treatment in this section of the form.

Only the person named in this section will be able to use your patient's eggs or sperm if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient's eggs or sperm for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A patient is storing their sperm and completed the GS form. When it is time to renew their consent, they complete the RG form. However, they have met a partner since completing the GS form, but they do not name them on the form. The patient subsequently dies. Their partner now wants to use the sperm for treatment purposes. However, because they were not named on the form, they are unable to use the sperm.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient who is single consents to store their eggs before receiving cancer treatment on the GS form. They later marry and do not realise that they must return to the clinic to amend their consent, ie, to include their partner's name. When they renew their consent on the RG form, they do not enter their partner's name. They later die and because they did not amend their consent to include their partner's name, their partner cannot use their eggs in treatment.

Section 3 – Renewal of consent to storage for your own treatment

You must write the date(s) that the patient's consent to the storage of their eggs or sperm ends (ie, the end of their Consent Period). There may be multiple dates, depending on when the eggs or sperm were placed in storage. You should urge the patient to complete this form by the **earliest date** written. If their consent is not renewed, then it is taken to be withdrawn and then 6 months after the date(s) written, the patient's eggs or sperm will be removed from storage and disposed of.

If your patient wishes to renew their consent to store their eggs or sperm for use in their, or their partner's, treatment (including with a surrogate), they can do so by ticking the yes box in question 3.1. If they tick yes, they must also specify how long they want their eggs or sperm to be stored.

The law allows for eggs or sperm to be stored for use in the patient's own treatment for any period up to a **maximum of 55 years from the date(s) that the eggs or sperm are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of eggs or sperm for up to 10 years at a time (calculated from the date the eggs or sperm were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent before their next Consent Period ends. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has sperm in storage; however, the patient's phone number, email address and home address have changed since they last renewed their consent. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's sperm must be removed from storage and disposed of, as at the end of the Renewal Period if consent is not renewed, it is taken to be withdrawn.

Section 4 – Withdrawing your consent to the storage of your eggs or sperm

If the patient does not wish to renew consent, at question 4.1, they can instead withdraw their consent to the storage of their eggs or sperm. They can withdraw their consent for these eggs or sperm to be stored for **any purpose** (option A) or they can withdraw their consent for their eggs or sperm to be stored for treatment purposes and instead consent for them to be used for **training purposes** (option B).

If the patient ticks yes to option B in question 4.1, then they need to specify how long they consent to their eggs or sperm being stored for training purposes in question 4.2. They cannot consent to use for training purposes without also consenting to storage for training purposes. The maximum time they can store their eggs or sperm for training purposes is **55 years from the date(s) that the eggs or sperm are first placed in storage**.

If your patient completes section 4, they should not complete sections 5, 6 and 7. Instead they should go straight to the declaration in section 8.

Section 5 – In the event of your death

If the patient has previously given consent to the use of their eggs or sperm for their partner's treatment (including with a surrogate) in the event of their death, then the consent given on this form will replace their previous consent.

Your patient is legally required to record what they would like to happen to their eggs or sperm if they were to die. If they do not give their consent, their eggs or sperm must be removed from storage and disposed of if this were to happen and cannot be used in treatment.

If they would like their partner to use their eggs or sperm in the event of their death, their partner should be named on this form. You should remind your patient that if their circumstances change (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment) after they have completed this consent form, they must contact the clinic to complete a new consent form that reflects their current wishes.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. If additional consent forms and screening tests are not completed before their death, posthumous use of their eggs or sperm in surrogacy may not be possible. You should discuss with your patient whether they wish for their eggs or sperm to be used in treatment with a surrogate after their death and the steps that must take place before their death if they wish for this to happen.

Use of eggs or sperm for treatment purposes in the event of death (question 5.1)

If the patient consents to their eggs or sperm being used for treatment after their death, the law permits for their eggs or sperm to be stored for their named partner's use for **10 years from the date of their death**. This is a cumulative 10-year period meaning that partners have 10 years total in which to create their embryos with their deceased partner's eggs or sperm and use them.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can choose to consent to their eggs or sperm being used in their partner's treatment without the creation of embryos outside the body (eg, in artificial insemination) in option A. Or they can consent to their eggs or sperm being used to create embryos outside the body and for those embryos to be stored and used for their partner's treatment (including with a surrogate) in option B.

The egg or sperm provider (their partner or donor) also needs to have given consent for embryos to be created in the case of option B. If a patient ticks yes at 5.1 for either option A or option B, they need to indicate how long they consent to the storage of their eggs or sperm after their death.

Use of eggs or sperm for training purposes in the event of death (question 5.2)

If your patient dies, they may have unused eggs or sperm that are not needed, or are not suitable, for their named partner's use. In section 5.2, your patient can consent for the unused eggs or sperm to be used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused eggs or sperm.

Eggs or sperm can be stored for training purposes for a maximum of **55 years from the date(s) that the eggs or sperm are first placed in storage**.

Section 6 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their eggs or sperm after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their eggs or sperm in treatment in the event of their mental incapacity.

Continued storage of their eggs or sperm after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their eggs or sperm may be available to be used in treatment.

Use and storage of eggs or sperm for treatment purposes in the event of loss of capacity (question 6.1)

At question 6.1 patients should record whether they wish for eggs or sperm to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their eggs to be stored only) and option B (consent for their eggs to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use their eggs in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their eggs or sperm to be stored but not used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their eggs or sperm to be stored. Eggs and sperm can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their eggs or sperm to be stored **and** used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity.

If the patient has consented to their eggs or sperm being used whilst they are mentally incapacitated, they can decide whether they would like for their eggs or sperm to be stored and used without the creation of

embryos outside the body or to create embryos outside the body and for those embryos to be stored and used for their partner's treatment. If they tick the yes box for either/both of those options, your patient should record how long they wish for their eggs or sperm to be stored and/or they should also record how long they wish for their embryos created with their eggs or sperm after their loss of capacity to be stored. Eggs, sperm and embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their eggs or sperm to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their eggs or sperm will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of eggs or sperm for training purposes in the event of loss of capacity

Patients can consent to their eggs or sperm being used in training in the event that they lose mental capacity. The use of eggs or sperm for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their eggs or sperm to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their eggs or sperm being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their eggs or sperm in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to eggs or sperm being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to eggs or sperm being stored or stored and used after they lose capacity.
- Where eggs or sperm are not clinically viable for treatment.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their sperm for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their sperm for training purposes, written consent was not provided and therefore the patient's sperm was removed from storage and disposed of once the 10-year storage period expired.

Other uses for your eggs or sperm if you die or become mentally incapacitated

When your patient renews their consent, you should ensure that if they have changed their mind about what they would like to happen to their eggs or sperm were they to die or to lose capacity to decide for

themselves that this has been recorded on the appropriate consent forms. If your patient wishes to consent for their eggs or sperm to be used in someone else's treatment (including their partner's treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating your eggs' (WD form)
- 'Your consent to donating your sperm' (MD form)
- 'Your consent to the use and storage of eggs or embryos for surrogacy' (WSG form)
- 'Your consent to the use and storage of sperm or embryos for surrogacy' (MSG form).

Section 7 - Registration as legal parent after death

If the patient has given consent to their **sperm**, or embryos created outside the body with their **sperm**, being used after their death, they may also wish to consent to being registered as the legal parent of any child that is born as a result of their partner's treatment. This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. They can do this by ticking yes at 7.1. Registration will be subject to the birth mother electing, in writing, for the patient to be registered as the legal parent within 42 days of the birth of the child. For more information about this, the patient should seek their own legal advice.

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

RE (TP) Renewal of consent to storage of your embryos for treatment during the Transitional Period

Important note

This form is only to be used during the Transitional Period (1 July 2022 – 30 June 2024).

Purpose of this form

By law (under the Act), your patient is required to renew their consent every 10 years if they wish to continue to store their embryos for their, or their partner's, treatment (eg, for IVF or ICSI), including with a surrogate if applicable. This form should only be used as part of the renewal of consent process, in conjunction with HFEA Statutory Notices. This form should not be used to give additional consent if a patient consents to a storage period less than 10 years.

Your patient is also legally required to record what they would like to happen to their embryos if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

If the patient has embryo(s) that were kept in storage prior to 1 July 2022, and the Consent Period(s) ends between 1 July 2022 and 1 July 2024, you must send this form out to them. The patient can then use this form to renew their consent to the storage of their embryo(s) before 30 June 2024. If this form is not completed and returned by 30 June 2024, their embryos should be removed from storage and disposed of when storage is no longer lawful (on 1 January 2025).

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their embryos if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their embryos according to their wishes if this were to happen. Their embryos can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their embryos cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

Embryos may only be stored and used if both the egg and sperm provider (their partner or donor) have given their consent.

If your patient would like their partner to use their embryos in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their embryos in surrogacy after their death or loss of capacity may not be possible. You should discuss with your patient whether they wish for their embryos to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A couple have embryos in storage created using their own eggs and sperm. When it is time to renew consent, they tell the clinic that they would like the sperm provider to be able to use the embryos in treatment with a surrogate if the egg provider were to die. The clinic prompt them to state this on the RE (TP) form but do not discuss the additional consent forms, screening tests and counselling related to surrogacy that would be required. The egg provider subsequently dies. As the necessary steps were not taken before death, the sperm provider cannot use their embryos in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store embryos six months after the end of the Renewal Period if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

If your patient is having treatment with a partner, their partner should be named in this section of the form.

Only the person named in this section will be able to use your patient's embryos if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient's embryos for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A couple have embryos in treatment created with one partner's sperm and donor eggs. The sperm provider consents to the renewal of storage for the embryos at the appropriate time, but they do not name their partner on the RE (TP) form. The sperm provider subsequently dies. Their partner now wants to use the stored embryos for treatment purposes. However, because the sperm provider did not name them on the form, they are unable to use the embryos in treatment.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to

have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient is storing embryos created with their eggs and donor sperm before receiving cancer treatment. By the time they renew consent, they have met a partner, and they enter their partner's name on the RE (TP) form. They later separate from their partner and do not realise that they must return to the clinic to amend their consent, ie, to remove their partner's name. They later die and because they did not amend their consent to remove their partner's name, their partner can still use their embryos in treatment, even though they may not have wished for this to happen.

Section 3 – Renewal of consent to storage for your own treatment

You must write the date(s) that the next Consent Period(s) for the storage of the patient's embryo(s) begins. There may be multiple dates, depending on when the embryo(s) were placed in storage. You must remind the patient that if this form is not completed before 30 June 2024, then the patient's consent to the storage of their embryo(s) for treatment will be taken as withdrawn and they will be removed from storage and disposed of.

If your patient wishes to renew their consent to store their embryos for use in their, or their partner's, treatment (including with a surrogate), they can do so by ticking the yes box in question 3.1. If they tick yes, they must also specify how long they want their embryos to be stored.

The law allows for embryos to be stored for use in the patient's own treatment for any period up to a **maximum of 55 years from the date(s) that the embryos are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of embryos for up to 10 years at a time (calculated from the date the embryos were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue.

Embryos can only be stored if both the sperm and the egg provider (their partner or donor) have given their consent.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent before their next Consent Period ends. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has embryos in storage; however, the patient's phone number, email address and home address have changed since they last renewed their consent. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's embryos must be removed from storage and disposed of, as at the end of the Renewal Period if consent is not renewed, it is taken to be withdrawn.

Section 4 – Withdrawing your consent to the storage of your embryos

If the patient does not wish to renew consent, at question 4.1 they can instead withdraw their consent for these embryos to be stored for **any purpose** (option A) or they can withdraw their consent for their embryos to be stored for treatment purposes and instead consent for them to be used for **training purposes** (option B).

It should be noted that if your patient withdraws their consent to the storage of embryos, if the other egg or sperm provider (their partner or donor) does not want to withdraw their consent to the storage of embryos, then the embryos may remain in storage for up to 12 months after your patient withdraws their consent. You can read more about this in the **Code of Practice** guidance note 17 – Storage of gametes and embryos.

If the patient ticks option B in question 4.1, then they need to specify how long they consent to their embryos being stored for training purposes in question 4.2. They cannot consent to use for training purposes without also consenting to storage for training purposes. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on this form**.

Embryos can only be used for training purposes if both the sperm and the egg provider (their partner or donor) have given their consent.

If your patient completes section 4, they should not complete sections 5, 6 and 7. Instead they should go straight to the declaration in section 8.

Section 5 – In the event of your death

If the patient has previously given consent to the use of their embryos for their partner's treatment (including with a surrogate) in the event of their death, then the consent given on this form will replace their previous consent.

Your patient is legally required to record what they would like to happen to their embryos if they were to die. If they do not give their consent, their embryos must be removed from storage and disposed of if this were to happen and cannot be used in treatment.

The embryos may only be stored and used within the storage period they have consented to and if both the egg and sperm provider (their partner or donor) have given their consent.

If they would like their partner to use their embryos in the event of their death, their partner should be named on this form. You should remind your patient that if their circumstances change (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment) after they have completed this consent form, they must contact the clinic to complete a new consent form that reflects their current wishes.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. If additional consent forms and screening tests are not completed before their death, posthumous use of their embryos in surrogacy may not be possible. You should discuss with your patient whether they wish for their embryos to be used in treatment with a surrogate after their death and the steps that must take place before their death if they wish for this to happen.

Use of embryos for treatment purposes in the event of death (question 5.1)

If the patient consents to their embryos being used for treatment after their death, the law permits for their embryos to be stored for their named partner's use for **10 years from the date of their death**.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can consent to embryos being stored and used for their partner's treatment in question 5.1. If a patient ticks yes at 5.1, they need to indicate how long they consent to the storage of their embryos after their death. The embryos may only be stored and used after your patient's death if both the egg and sperm provider (their partner or donor) have given their consent.

Use of embryos for training purposes in the event of death (question 5.2)

If your patient dies, they may have unused embryos that are not needed, or are not suitable, for their named partner's use. In question 5.2, your patient can consent for the unused embryos to be used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused embryos.

Embryos can be stored for training purposes for **up to 10 years from the date that the form is signed**. The embryos may only be stored and used after your patient's death if both the egg and sperm provider (their partner or donor) have given their consent.

Section 6 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their embryos after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their embryos in treatment in the event of their mental incapacity.

Continued storage of their embryos after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their embryos may be available to be used in treatment.

Use and storage of embryos for treatment purposes in the event of loss of capacity (question 6.1)

At question 6.1 patients should record whether they wish for their embryos to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their embryos to be stored only) and option B (consent for their embryos to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use the stored embryos in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored but not used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **and** used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their embryos to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their embryos will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of embryos for training purposes in the event of loss of capacity

Patients can consent to their embryos being used in training in the event that they lose mental capacity. The use of embryos for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their embryos to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their embryos being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their embryos in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to embryos being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to embryos being stored or stored and used after they lose capacity.
- Where embryos are not clinically viable for treatment.
- In the case of embryos, where the other egg or sperm provider (their partner or donor) has withdrawn consent.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their embryos for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their embryos for training purposes, written consent was not provided and therefore the patient's embryos were removed from storage and disposed of once the 10-year storage period expired.

Other uses for your embryos if you die or become mentally incapacitated

When your patient renews their consent, you should ensure that if they have changed their mind about what they would like to happen to their embryos were they to die or to lose capacity to decide for themselves that this has been recorded on the appropriate consent forms. If your patient wishes to consent for their embryos to be used in someone else's treatment (including their partner's treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating embryos' (ED form)
- 'Your consent to the use and storage of sperm or embryos for surrogacy' (MSG form)
- 'Your consent to the use and storage of eggs or embryos for surrogacy' (WSG form).

Section 7 - Registration as legal parent after death

If the patient has given consent to their embryos created outside the body with their **sperm** being used after their death, they may also wish to consent to being registered as the legal parent of any child that is born as a result of their partner's treatment. This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. They can do this by ticking yes at 7.1. Registration will be subject to the birth mother electing, in writing, for the patient to be registered as the legal parent within 42 days of the birth of the child. For more information about this, the patient should seek their own legal advice.

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be

made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

RG (TP) form Renewal of consent to storage of your eggs or sperm for treatment during the Transitional Period

Important note

This form is only to be used during the Transitional Period (1 July 2022 – 30 June 2024).

Purpose of this form

By law (under the Act), your patient is required to renew their consent every 10 years if they wish to continue to store their eggs or sperm for their, or their partner's, treatment (eg, for IVF or ICSI), including with a surrogate if applicable. This form should only be used as part of the renewal of consent process, in conjunction with HFEA Statutory Notices. This form should not be used to give additional consent if a patient consents to a storage period less than 10 years.

Your patient is also legally required to record what they would like to happen to their eggs or sperm if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

If the patient has eggs or sperm that were kept in storage prior to 1 July 2022, and the Consent Period(s) ends between 1 July 2022 and 1 July 2024, you must send this form out to them. The patient can then use this form to renew their consent to the storage of their eggs or sperm before 30 June 2024. If this form is not completed and returned by 30 June 2024, their eggs or sperm should be removed from storage and disposed of when storage is no longer lawful (on 1 July 2024).

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their eggs or sperm if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their eggs or sperm according to their wishes if this were to happen. Their eggs or sperm can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their eggs or sperm cannot be used in treatment in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

If your patient would like their partner to use their eggs or sperm in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their eggs or sperm in surrogacy after their death or loss of capacity may not be possible. You should discuss with your patient whether they wish for their eggs or sperm to be used in treatment with a surrogate after their death or loss of capacity and the steps that must take place before their death or loss of capacity if they wish for this to happen.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A patient stored sperm before undergoing cancer treatment and completed the GS form as they were single. When it is time to renew their consent, they have met a partner. The patient completes the RG (TP) form and tells the clinic that they would like for their partner to be able to use their sperm in a surrogacy arrangement if they were to die. The clinic prompt them to state this on the RG (TP) form. However, the clinic does not prompt them to complete additional consent forms or other necessary steps related to surrogacy. The sperm provider subsequently dies. As the necessary steps were not completed before the death of the patient, their partner can no longer use the stored sperm in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store sperm or eggs beyond the Renewal Period if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About your partner

Your patient should name their partner with whom they are having treatment in this section of the form.

Only the person named in this section will be able to use your patient's eggs or sperm if your patient loses capacity or dies. If no one is named, then no one will be permitted to use your patient's eggs or sperm for treatment purposes if they die or while they are mentally incapacitated.

What can happen if the partner is not named on the form?

A patient is storing their sperm and completed the GS form. When it is time to renew their consent, they complete the RG (TP) form. However, they have met a partner since completing the GS form, but they do not name them on the form. The patient subsequently dies. Their partner now wants to use the sperm for treatment purposes. However, because they were not named on the form, they are unable to use the sperm.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient who is single consents to store their eggs before receiving cancer treatment on the GS form. They later marry and do not realise that they must return to the clinic to amend their consent, ie, to include their partner's name. When they renew their consent on the RG (TP) form, they do not enter their partner's name. They later die and because they did not amend their consent to include their partner's name, their partner cannot use their eggs in treatment.

Section 3 – Renewal of consent to storage for your own treatment

You must write the date(s) that the next Consent Period(s) for the storage of the patient's eggs or sperm begins. There may be multiple dates, depending on when the eggs or sperm were placed in storage. You must remind the patient that if this form is not completed before 30 June 2024, then the patient's consent to the storage of their eggs or sperm for treatment will be taken as withdrawn and they will be removed from storage and disposed of.

If your patient wishes to renew their consent to store their eggs or sperm for use in their, or their partner's, treatment (including with a surrogate), they can do so by ticking the yes box in question 3.1. If they tick yes, they must also specify how long they want their eggs or sperm to be stored.

The law allows for eggs or sperm to be stored for use in the patient's own treatment for any period up to a **maximum of 55 years from the date(s) that the eggs or sperm are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of eggs or sperm for up to 10 years at a time (calculated from the date the eggs or sperm were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent before their next Consent Period ends. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has sperm in storage; however, the patient's phone number, email address and home address have changed since they last renewed their consent. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's sperm must be removed from storage and disposed of, as at the end of the Renewal Period if consent is not renewed, it is taken to be withdrawn.

Section 4 – Withdrawing your consent to the storage of your eggs or sperm

If the patient does not wish to renew consent, at question 4.1 they can instead withdraw their consent to the storage of their eggs or sperm. They can withdraw their consent for their eggs or sperm to be stored for **any purpose** (option A) or they can withdraw their consent for these eggs or sperm to be stored for treatment purposes and instead consent for them to be used for **training purposes** (option B).

If the patient ticks yes to option B in question 4.1, then they need to specify how long they consent to their eggs or sperm being stored for training purposes in question 4.2. They cannot consent to use for training purposes without also consenting to storage for training purposes. The maximum time they can store their eggs or sperm for training purposes is **55 years from the date(s) that the eggs or sperm are first placed in storage**.

If your patient completes section 4, they should not complete sections 5, 6 and 7. Instead they should go straight to the declaration in section 8.

Section 5 – In the event of your death

If the patient has previously given consent to the use of their eggs or sperm to create embryos for their partner's treatment (including with a surrogate) in the event of their death, then the consent given on this form will replace their previous consent.

Your patient is legally required to record what they would like to happen to their eggs or sperm if they were to die. If they do not give their consent, their eggs or sperm must be removed from storage and disposed of if this were to happen and cannot be used in treatment.

If they would like their partner to use their eggs or sperm in the event of their death, their partner should be named on this form. You should remind your patient that if their circumstances change (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment) after they have completed this consent form, they must contact the clinic to complete a new consent form that reflects their current wishes.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. If additional consent forms and screening tests are not completed before their death, posthumous use of their eggs or sperm in surrogacy may not be possible. You should discuss with your patient whether they wish for their eggs or sperm to be used in treatment with a surrogate after their death and the steps that must take place before their death if they wish for this to happen.

Use of eggs or sperm for treatment purposes in the event of death (question 5.1)

If the patient consents to their eggs or sperm being used for treatment after their death, the law permits for their eggs or sperm to be stored for their named partner's use for **10 years from the date of their death**. This is a cumulative 10-year period meaning that partners have 10 years total in which to create their embryos with their deceased partner's eggs or sperm and use them.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can choose to consent to their eggs or sperm being used in their partner's treatment without the creation of embryos outside the body (eg, in artificial insemination) in option A. Or they can consent to their eggs or sperm being used to create embryos outside the body and for those embryos to be stored and used for their partner's treatment (including with a surrogate) in option B.

The egg or sperm provider (their partner or donor) also needs to have given consent for embryos to be created in the case of option B. If a patient ticks yes at 5.1 for either option A or option B, they need to indicate how long they consent to the storage of their eggs or sperm after their death.

Use of embryos for training purposes in the event of death (question 5.2)

If your patient dies, they may have unused eggs or sperm that are not needed, or are not suitable, for their named partner's use. In question 5.2, your patient can consent for the unused eggs or sperm to be used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused eggs or sperm.

Eggs or sperm can be stored for training purposes for a maximum of **55 years from the date(s) that the eggs or sperm are first placed in storage**.

Section 6 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their eggs or sperm after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their eggs or sperm in treatment in the event of their mental incapacity.

Continued storage of their eggs or sperm after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their eggs or sperm may be available to be used in treatment.

Use and storage of eggs or sperm for treatment purposes in the event of loss of capacity (question 6.1)

At question 6.1 patients should record whether they wish for their eggs or sperm to be only stored, stored and used, or neither in the event they lose mental capacity.

If treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and once they have done so they should go to the declaration at the end of the consent form, remembering to sign the declaration on every page. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their eggs to be stored only) and option B (consent for their eggs to be stored and used) on the form. They subsequently lose mental capacity. Their partner now wants to use their eggs in treatment. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their eggs or sperm to be stored but not used in a partner's treatment can consent to this by selecting option A. They should then record how long they wish for their eggs or sperm to be stored. Eggs and sperm can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their eggs or sperm to be stored **and** used in their named partner's treatment whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. Depending on their circumstances (eg, where treatment would require a surrogate) additional consent forms and screening tests must take place before the patient loses capacity.

If the patient has consented to their eggs or sperm being used whilst they are mentally incapacitated, they can decide whether they would like for their eggs or sperm to be stored and used without the creation of embryos outside the body or to create embryos outside the body and for those embryos to be stored and used for their partner's treatment. If they tick the yes box for either/both of those options, your patient should record how long they wish for their eggs or sperm to be stored and/or they should also record how long they wish for their embryos created with their eggs or sperm after their loss of capacity to be stored. Eggs, sperm and embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their embryos to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their eggs or sperm will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of eggs or sperm for training purposes in the event of loss of capacity

Patients can consent to their eggs or sperm being used in training in the event that they lose mental capacity. The use of eggs or sperm for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their eggs or sperm to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their eggs or sperm being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their eggs or sperm in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to eggs or sperm being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to eggs or sperm being stored or stored and used after they lose capacity.
- Where eggs or sperm are not clinically viable for treatment.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their sperm for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their sperm for training purposes, written consent was not provided and therefore the patient's sperm was removed from storage and disposed of once the 10-year storage period expired.

Other uses for your eggs or sperm if you die or become mentally incapacitated

When your patient renews their consent, you should ensure that if they have changed their mind about what they would like to happen to their eggs or sperm were they to die or to lose capacity to decide for themselves that this has been recorded on the appropriate consent forms. If your patient wishes to consent for their eggs or sperm to be used in someone else's treatment (including their partner's treatment with a surrogate) if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating your eggs' (WD form)
- 'Your consent to donating your sperm' (MD form)
- 'Your consent to the use and storage of eggs or embryos for surrogacy' (WSG form)
- 'Your consent to the use and storage of sperm or embryos for surrogacy' (MSG form).

Section 7 - Registration as legal parent after death

If the patient has given consent to their **sperm**, or embryos created outside the body with their **sperm**, being used after their death, they may also wish to consent to being registered as the legal parent of any child that is born as a result of their partner's treatment. This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. They can do this by ticking yes at 7.1. Registration will be subject to the birth mother electing, in writing, for the patient to be registered as the legal parent within 42 days of the birth of the child. For more information about this, the patient should seek their own legal advice.

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

RG (TP) form
Renewal of consent to storage of your eggs or sperm for treatment during the Transitional Period

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

ED form
Your consent to donating embryos

Purpose of this form

By law (under the Act) a donor needs to give their written consent if they want embryos, created in vitro with their sperm or eggs, to be used or stored for the treatment of others. Embryos can only be used if both the egg and sperm provider have given their consent.

By consenting to donate, they are also agreeing to the embryos being stored and used if they were to die or lose the ability to decide for themselves (become mentally incapacitated). If they do not want their embryos to be used if this were to happen, they can state this as a restriction in question 2.4 of this form. If they only want their embryos to be donated in the event of their death, they should state that here.

If your patient is consenting to embryos created with their eggs being used in their partner's treatment in reciprocal IVF they should complete the WPT form and not the ED form.

Donors should also be given the option to consent to their embryos to be exported. If they do not consent for their embryos to be exported, then a special direction would be required if export is desired by the recipient(s). If they wish to consent to the export of their embryos, their consent should be recorded on an 'in house' consent and stored in the patient's records.

Section 2 – About your embryo donation

The donor must provide their consent for their embryos to be **used** for the treatment of others. They can do this by ticking the yes box in question 2.2.

The donor must also state how many families can have children using their donated embryos. The maximum number of families they can donate to in the UK is 10 families.

The donor can place restrictions on their donation in question 2.4. For example, they may wish for their embryos to be used by a specified named recipient, or they may wish to restrict their use to when they are alive or if they were to become mentally incapacitated. Where donors have stated this as a restriction, you will need to establish that the donor is still alive/mentally capable before each treatment cycle which uses their embryos. It's against the law to for clinics to discriminate against anyone because of:

a) age

b) disability

c) gender reassignment

d) marriage and civil partnership

e) pregnancy and maternity

f) race

g) religion or belief

h) sex

i) sexual orientation.

These are called ‘protected characteristics’. Potential donors should be told that they cannot add conditions to their donations that could lead to discriminatory treatment of patients on grounds of a protected characteristic. Further guidance can be found in the **Code of Practice** (Guidance note 11: Donor recruitment, assessment and screening).

Section 3 – Storing embryos for someone else’s treatment

The donor can consent to their embryos being **stored** for use in someone else’s treatment. The law allows for embryos to be stored for use in someone else’s treatment for up to **55 years from the date that the embryos are first placed in storage**.

In question 3.2, donors **should include the period for which embryos have already been stored** when calculating the total period to which they consent to storage for donation purposes. For example, if embryos have been in storage for 10 years for treatment purposes, and patients subsequently want to consent to storage for donation purposes for the maximum storage period possible, they should enter 55, rather than 45, years.

Once you have allocated their embryos to another patient, you, together with the patient, may determine how long the embryos are stored for within the boundaries of what the donor has consented to in this form.

You should let the recipient or potential recipient of the donation know how long their donor has consented to store their embryos for at the time of treatment and how long the patient has to use the donated embryos.

You should also let the recipient or potential recipient of the donation know that the donor could vary or withdraw their consent at any time before their donated embryos are used in treatment.

What can happen if the form is not completed correctly?

A patient already has embryos in storage for treatment purposes, but they have now decided that they want to donate their embryos to their sister. The patient's embryos have already been in storage for two years, and they now want to consent to storage for donation purposes for five years. However, the patient enters five years on the form, instead of seven years. After six years, the patient's sister is ready to have a baby with their partner and use the embryos in treatment. As the patient entered five years on the form, the embryos were removed from storage and disposed of, and the only chance of having a genetically related child is lost.

Section 4 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

What if the donor wants to change their consent?

Donors can vary or withdraw their consent at any time before treatment with their embryos takes place. They should be fully informed about the implications of the withdrawal of their consent, and they should be offered full implications counselling. If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

MD form
Your consent to donating your sperm

Purpose of this form

By law (under the Act), a donor needs to give their written consent if they want their sperm, or embryos created in vitro with their sperm, to be used or stored for the treatment of others.

By consenting to donate their sperm or embryos, they are also agreeing to them being stored and used if they were to die or lose the ability to decide for themselves (become mentally incapacitated). If they do not want their sperm or embryos to be used if this were to happen, they can state this as a restriction in question 2.4 of this form. They can also state here that they only want their sperm or embryos to be donated in the event of their death.

Donors should also be given the option to consent to their sperm or embryos to be exported. If they do not consent for their sperm or embryos to be exported, then a special direction would be required if export is desired by the recipient(s). If they wish to consent to the export of their sperm or embryos, their consent should be recorded on an 'in house' consent and stored in the patient's records.

Section 2 – About your sperm donation

The donor must provide their consent for their sperm to be **used** for the treatment of others and for embryos created with their sperm to be used for the treatment of others. They can do this by ticking the yes box at questions 2.1 and 2.2.

The donor must also state how many families can have children using their donated sperm. The maximum number of families they can donate to in the UK is 10 families.

They can place restrictions on the donation of their sperm or embryos in question 2.4. For example, they may wish for their sperm or embryos to be used by a specified named recipient, or they may wish to restrict use to when they are alive or if they were to become mentally incapacitated. Where donors have stated this as a restriction, you will need to establish that the donor is still alive/mentally capable before each treatment cycle which uses their sperm or embryos.

It's against the law for clinics to discriminate against anyone because of:

a) age

b) disability

c) gender reassignment

d) marriage and civil partnership

e) pregnancy and maternity

f) race

g) religion or belief

h) sex

i) sexual orientation.

These are called ‘protected characteristics’. Potential donors should be told that they cannot add conditions to their donations that could lead to discriminatory treatment of patients on grounds of a protected characteristic. Further guidance can be found in the **Code of Practice** (Guidance note 11: Donor recruitment, assessment and screening).

Section 3 – Storing sperm and embryos for someone else’s treatment

To donate sperm for the treatment of others, they must consent to their sperm and/or embryos being **stored**. They can do this by ticking yes at 3.1 and/or 3.3. Embryos can only be stored if the egg provider has also given their consent.

They must also specify how long they want their sperm or embryos to be stored which they can do in questions 3.2 and 3.4 of the form.

The law allows for sperm and embryos to be stored for use in someone else’s treatment for up to **55 years from the date(s) that the sperm and embryos are first placed in storage**.

If the donor is ‘re-allocating’ **sperm** that has been in storage for their own treatment to instead be stored for someone else’s treatment, in question 3.2 they should **include the period for which the sperm has already been stored** when calculating the total period to which they consent to storage for donation purposes. For example, if sperm has been in storage for 10 years for treatment purposes, and patients subsequently want to consent to storage for donation purposes for the maximum storage period possible, they should enter 55, rather than 45, years. If the donor is ‘re-allocating’ **embryos created with their sperm** that have been in storage for their own treatment to instead be stored for someone else’s treatment, they should complete the ED form rather than the MD form.

Once you have allocated their sperm or embryos to another patient, you, together with the patient, may determine how long the sperm or embryos are stored for within the boundaries of what the donor has consented to in this form.

You should let the recipient or potential recipient of the donation know how long their donor has consented to store their sperm or embryos for at the time of treatment and how long the patient has to use the donated sperm or embryos.

You should also let the recipient or potential recipient of the donation know that the donor could vary or withdraw their consent at any time before their donated sperm or embryos are used in treatment.

What can happen if the form is not completed correctly?

A patient already has sperm in storage for treatment purposes, but they have now decided that they want to donate their sperm to their brother who is undergoing chemotherapy. The patient's sperm has already been in storage for two years and they now want to consent to storage for donation purposes for five years. However, the patient enters five years on the form, instead of seven years. After six years, the patient's brother is ready to have a baby with their partner and use the sperm in treatment. As the patient entered five years on the form, the sperm was removed from storage and disposed of, and the only chance of having a genetically related child is lost.

Section 4 – Use and storage of sperm and embryos for training purposes

If the donor has sperm and/or embryos that are not used in treatment, or are not suitable for use in treatment, they can consent to donate these for training purposes to allow designated healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes in questions 4.1 and/or 4.3. Embryos can only be stored if the egg provider has also given their consent.

They also need to specify how long they consent for their sperm or embryos to be stored for training purposes. The maximum amount of time they can store their sperm for training purposes is **55 years from the date(s) that the sperm is first placed in storage**. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on the form**. They can specify how long they want their sperm and/or embryos to be stored for training purposes in questions 4.2 and/or 4.4. In some circumstances, this will mean that it is not possible for embryos to be used in training. For example, if after 15 years the patient(s) to whom the embryos were allocated no longer wish to store the embryos for treatment (and it is not possible for the embryos to be re-allocated to another patient) then it will **not** be possible for the embryos to be stored for training purposes, since more than 10 years have passed since the donor completed the MD form.

Section 5 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

What if the donor wants to change their consent?

Donors can vary or withdraw their consent at any time before treatment with their sperm or embryos takes place. They should be fully informed about the implications of the withdrawal of their consent, and they should be offered full implications counselling. If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

WD form
Your consent to donating your eggs

Purpose of this form

By law (under the Act), a donor needs to give their written consent if they want their eggs, or embryos created in vitro with their eggs, to be used or stored for the treatment of others.

By consenting to donate their eggs or embryos, they are also agreeing to them being stored and used if they were to die or lose the ability to decide for themselves (become mentally incapacitated). If they do not want their eggs or embryos to be used if this were to happen, they can state this as a restriction in question 2.4 of this form. They can also state here that they only want their eggs or embryos to be donated in the event of their death.

If your patient is consenting to their eggs being used in their partner's treatment, they should complete the WPT form and not the WD form.

Donors should also be given the option to consent to their eggs or embryos to be exported. If they do not consent for their eggs or embryos to be exported, then a special direction would be required if export is desired by the recipient(s). If they wish to consent to the export of their eggs or embryos, their consent should be recorded on an 'in house' consent and stored in the patient's records.

Section 2 – About your egg donation

The donor must provide their consent for their eggs to be **used** for the treatment of others and for embryos created with their eggs to be used for the treatment of others. They can do this by ticking the yes box in questions 2.1 and 2.2.

The donor must also state how many families can have children using their donated eggs. The maximum number of families they can donate to in the UK is 10 families.

They can place restrictions on the donation of their eggs or embryos in question 2.4. For example, they may wish for their eggs or embryos to be used by a specified named recipient, or they may wish to restrict use to when they are alive or if they were to become mentally incapacitated. Where donors have stated this as a restriction you will need to establish that the donor is still alive/mentally capable before each treatment cycle which uses their eggs or embryos.

It's against the law for clinics to discriminate against anyone because of:

a) age

b) disability

c) gender reassignment

d) marriage and civil partnership

e) pregnancy and maternity

f) race

g) religion or belief

h) sex

i) sexual orientation.

These are called ‘protected characteristics’. Potential donors should be told that they cannot add conditions to their donations that could lead to discriminatory treatment of patients on grounds of a protected characteristic. Further guidance can be found in the **Code of Practice** (Guidance note 11: Donor recruitment, assessment and screening).

Section 3 – Storing eggs and embryos for someone else’s treatment

To donate eggs for the treatment of others, they must consent to their eggs and/or embryos being **stored**. They can do this by ticking yes at 3.1 and/or 3.3. Embryos can only be stored if the sperm provider has also given their consent.

They must also specify how long they want their eggs or embryos to be stored which they can do in questions 3.2 and 3.4 of the form.

The law allows for eggs and embryos to be stored for use in someone else’s treatment for up to **55 years from the date(s) that the eggs and embryos are first placed in storage**.

If the donor is ‘re-allocating’ **eggs** that have been in storage for their own treatment to instead be stored for someone else’s treatment, in question 3.2 they should **include the period for which the eggs have already been stored** when calculating the total period to which they consent to storage for donation purposes. For example, if eggs have been in storage for 10 years for treatment purposes, and patients subsequently want to consent to storage for donation purposes for the maximum storage period possible, they should enter 55, rather than 45, years. If the donor is ‘re-allocating’ **embryos created with their eggs** that have been in storage for their own treatment to instead be stored for someone else’s treatment, they should complete the ED form rather than the WD form.

Once you have allocated their eggs or embryos to another patient, you, together with the patient, may determine how long the eggs or embryos are stored for within the boundaries of what the donor has consented to in this form.

You should let the recipient or potential recipient of the donation know how long their donor has consented to store their eggs or embryos for at the time of treatment and how long the patient has to use the donated eggs or embryos.

You should also let the recipient or potential recipient of the donation know that the donor could vary or withdraw their consent at any time before their donated eggs or embryos are used in treatment.

What can happen if the form is not completed correctly?

A patient already has eggs in storage for treatment purposes, but they have now decided that they want to donate their eggs to their sister who is undergoing chemotherapy. The patient's eggs have already been in storage for two years and they now want to consent to storage for donation purposes for five years. However, the patient enters five years on the form, instead of seven years. After six years, the patient's sister is ready to have a baby with their partner and use the eggs in treatment. As the patient entered five years on the form, the eggs were removed from storage and disposed of, and the only chance of having a genetically related child is lost.

Section 4 – Use and storage of eggs and embryos for training purposes

If the donor has eggs and/or embryos that are not used in treatment, or are not suitable for use in treatment, they can consent to donate these for training purposes to allow designated healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes in questions 4.1 and/or 4.3. Embryos can only be stored if the sperm provider has also given their consent.

They also need to specify how long they consent for their eggs or embryos to be stored for training purposes. The maximum amount of time they can store their eggs for training purposes is **55 years from the date(s) that the eggs are first placed in storage**. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on the form**. They can specify how long they want their eggs and/or embryos to be stored for training purposes in questions 4.2 and/or 4.4. In some circumstances, this will mean that it is not possible for embryos to be used in training. For example, if after 15 years the patient(s) to whom the embryos were allocated no longer wish to store the embryos for treatment (and it is not possible for the embryos be re-allocated to be another patient) then it will **not** be possible for the embryos to be stored for training purposes, since more than 10 years have passed since the donor completed the WD form.

Section 5 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

What if the donor wants to change their consent?

Donors can vary or withdraw their consent at any time before treatment with their eggs or embryos takes place. They should be fully informed about the implications of the withdrawal of their consent, and they should be offered full implications counselling. If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

SPP form
Your consent to being the legal parent in surrogacy

Purpose of this form

By law (the 2008 Act), someone other than the biological father can be nominated as the second legal parent of any child born from surrogacy – as long as both the nominated intended parent and the surrogate give notices consenting to this in writing before sperm, egg or embryo transfer. The nominated intended parent should do this on this form and the surrogate should do this on the SWP form.

This form should not be completed if the surrogate is married or in a civil partnership and their spouse or civil partner consents to the treatment (the surrogate's spouse or civil partner will be the other legal parent) or if it is intended that the biological father is the second legal parent (since in common law they will automatically be the legal parent if the surrogate is not married or in a civil partnership and no one else has been nominated as a parent).

Section 2 – About the surrogate

The surrogate must be named in this section. This information is needed for sections 3 and 4. Legal parenthood conditions cannot be satisfied by completing the SPP form without naming a specific surrogate. More information can be found on this in section 4.

Consent is usually confined to the use of the surrogate named on this form. Therefore, it is essential that you are notified if the proposed surrogate changes. The named surrogate on the SPP and WSG or MSG forms need to be the same. If the SPP form is updated with a new surrogate's name, then the WSG or MSG form also needs to be updated with the new surrogate's name too.

What can happen if the form is not completed correctly?

A patient and their partner decide to undergo treatment using a surrogate and they name the proposed surrogate on the SPP and WSG form. The patient and their partner decide to change their proposed surrogate and sign a new SPP, but they forget to update the WSG form with the new surrogate's name. The patient subsequently loses mental capacity. As the SPP and WSG forms name different surrogates, it is not clear which surrogate the patient consented to and the ambiguity may need to be resolved in court for treatment to proceed.

Section 3 – Your notice of consent to being the legal parent

The nominated parent must tick the box at 3.1 to consent to being the legal parent of any child born from the surrogate's treatment. The nominated parent should name the surrogate in section 2 of the form.

You should strongly advise all parties involved in the surrogacy arrangement to seek their own legal advice before entering into a surrogacy arrangement.

Section 4 – In the event of your death

Please note that the law concerning posthumous conception and surrogacy is complex and if they are registered as the legal parent after their death, it may not be straightforward for their surviving partner to pursue a parental order.

If the nominated intended parent has given consent to embryos created before their death being transferred to the surrogate after their death, they may also wish to consent to being registered as the legal parent of any child that is born as a result of surrogacy treatment (with embryos created before their death and provided to the surrogate after their death). This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. They can do this by ticking yes at 4.1. For more information about this, the patient should seek their own legal advice.

Section 2 of this form needs to have been completed for legal parenthood conditions to have been satisfied. The absence of a named surrogate will prevent the operation of legal parenthood conditions in the context of a surrogacy arrangement.

Section 5 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

SWP
Your consent (as a surrogate) nominating an intended parent to be the legal parent

Purpose of this form

By law (the 2008 Act), someone other than the biological father can be nominated as the second legal parent of any child born from surrogacy – as long as both the nominated intended parent and the surrogate give notices consenting to this in writing before sperm, egg or embryo transfer. The surrogate can do this on this form and the nominated intended parent can do this on the SPP form.

The surrogate should not complete this form if they are: married or in a civil partnership and their spouse or civil partner consents to treatment (their spouse or civil partner will be the other legal parent), or not married or in a civil partnership and they wish for the intended biological father to be the legal father (they will automatically be the legal father if no one else has been nominated as a legal parent).

Section 2 – About the nominated intended parent

The surrogate should name the nominated intended parent in this section. This information is needed for section 3.

Section 3 – Your consent

The surrogate must tick the box at 3.1 to consent to the nominated intended parent being the legal parent. The nominated intended parent should be named in section 2 of the form.

You should strongly advise all parties involved in the surrogacy arrangement to seek their own legal advice before entering into a surrogacy arrangement.

Section 4 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

WSG form
Your consent to the use and storage of eggs or embryos for surrogacy

Purpose of this form

By law (under the Act), your patient needs to give their written consent if they want their eggs or embryos to be used or stored for treatment with a surrogate. If your patient is storing eggs or embryos, they must also state in writing how long they consent to them remaining in storage.

Your patient is also legally required to record what they would like to happen to their eggs or embryos if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

You should strongly recommend that your patient seeks their own legal advice before entering into a surrogacy arrangement.

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their eggs or embryos if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their eggs and embryos according to their wishes if this were to happen. Their eggs and embryos can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their eggs or embryos cannot be used in treatment with a surrogate in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

Embryos may only be stored and used if the sperm provider (their partner or sperm donor) has also given their consent.

If your patient would like their partner to use their eggs or embryos in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

As treatment would involve a surrogate, additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their eggs or embryos in surrogacy after their death or loss of capacity may not be possible.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A patient and their partner freeze embryos created with their gametes, which are intended to be used in treatment with a surrogate. They have found a surrogate. However, even though consent forms and counselling have been completed, the required screening tests are incomplete. The patient subsequently dies. As screening tests were not completed before the death of the patient, their partner cannot use their embryos in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store eggs or embryos beyond the Renewal Period (or, in the case of embryos, six months after the end of the Renewal Period) if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About the surrogate (if known at the time of consent)

The patient should use this section to enter information about their surrogate if this information is known at the time of consent. This section (and the equivalent section on the SPP) must be completed to satisfy the legal parenthood conditions. Without a named surrogate, your patient will not be the other legal parent at birth and will have to apply for a parental order.

If the patient does not have a particular surrogate in mind, they should not be deterred from completing this form. However, as soon as they identify a surrogate, they should contact the clinic with a view to completing the WSG form and naming the surrogate.

Consent is usually confined to the use of the surrogate named on this form. Therefore, it is essential that your patient contacts you if their proposed surrogate changes. The named surrogate on the SPP and WSG or MSG forms need to be the same. If your patient updates this WSG form with a new surrogate's name, then they need to update the SPP form with the new surrogate's name too.

Section 3 – Your partner's details (if applicable)

The patient should use this section to enter information about their partner, if this is applicable to them at the time of consent. This is important for the clinic to know who is 'having treatment together' with the patient and is crucial for the partner to be able to continue with the treatment if the patient dies; only the named partner can use the patient's eggs or embryos if the patient dies and has consented to posthumous use.

What can happen if the partner is not named on the form?

A patient has eggs in storage and is undergoing a surrogacy arrangement with their partner but does not name their partner on the form. The patient subsequently dies. The partner now wants to use the stored eggs in the surrogacy arrangement. However, because the patient did not name their partner on the form, their partner is unable to use the stored eggs.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient and their partner are storing embryos for use in surrogacy before the egg provider undergoes cancer treatment. The patient later separates from their partner and subsequently meets a new partner with whom they would like to have treatment. They subsequently die and because they did not amend their consent to include their new partner's name, their new partner cannot use their embryos in treatment, but their ex-partner may still be able to do so.

Section 4 – About the surrogacy arrangement

Your patient can provide their consent to their **eggs** being transferred to a surrogate using techniques such as GIFT in question 4.1. They can also provide their consent to their **eggs** being used to create embryos in vitro and for those embryos being transferred to the surrogate. They can do this by ticking the yes box at 4.2.

If they are consenting for their **embryos** to be used, they can provide their consent to the embryos already created using their eggs being transferred to the surrogate. They can do this by ticking the yes box at 4.3. The sperm provider (their partner or sperm donor) must also give their consent for embryos to be used.

Section 5 – Storing eggs and embryos

If your patient wishes to store their eggs and/or embryos, they must tick the yes box at 5.1 and/or 5.2. They must also specify how long they want their eggs and/or embryos to be stored.

The law allows for eggs and embryos to be stored for use in treatment with a surrogate for any period up to a **maximum of 55 years from the date(s) that the eggs or embryos are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of eggs or embryos for 10 years at a time (calculated from the date the eggs or embryos were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue. If consent is not renewed before the end of the renewal period, then consent is taken to be withdrawn.

Embryos can only be stored if the sperm provider (their partner or sperm donor) has also given their consent.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has eggs in storage; however, the patient's phone number, email address and home address have changed since they had treatment at the clinic. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's eggs must be removed from storage and disposed of.

Questions 5.3 and 5.4 relate to **additional storage** and should only be completed if the patient has already given initial consent for less than 10 years, or renewed their consent for less than 10 years, and now wishes to request an additional period of storage up to the end of the current Consent Period. For example, if a patient has given consent to store for an initial period of seven years, they cannot now consent for an **additional** 10 years. This is because they need to consent in 10-year blocks. Therefore, they would need to first consent for an **additional** three years. After this, they will need to **renew** their consent for a further 10 years if they wish for storage to continue.

If they have ticked yes for questions 5.3 and/or 5.4, the patient must indicate how long they want their additional period of storage to last. Any amount of time specified **will be in addition to** their existing storage period.

For example, if they consented to five years' storage and wish to consent for a further five years (10 years in total), they should state five years of storage (this is five years in addition to the five years they have already consented to). You should make your patient aware that the period they consent to should not exceed 10 years (calculated from the date of first storage or the end of the most recent Consent Period) because they are required to renew their consent every 10 years in order for storage to continue.

What can happen if a patient wants to change their consent but fills out the form incorrectly?

A patient initially consents to store their eggs for five years. However, at the end of five years they decide that they want to continue to store their eggs. The patient returns to the clinic and enter 10 years in the 'additional storage prior to renewal' section. Once five years have passed, the clinic contacts the patient to request that they renew their consent. Because the patient thinks they have given consent to 15 years total storage, they assume that the request does not apply to them, and they ignore it. They do not realise that they need to renew their consent after each 10-year period. When they return for treatment, the eggs have been removed from storage and disposed of because consent was taken as withdrawn.

Section 6 – Using eggs or embryos for training

If your patient has eggs and/or embryos left after treatment which are not needed or are not suitable for treatment, they can consent to donate these for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes to 6.1 and/or 6.3. If they wish to donate their eggs or embryos for research purposes, they should sign a separate clinic-specific form.

If they tick yes to 6.1 and/or 6.3, they need to specify how long they consent for their eggs and/or embryos to be stored for training purposes in questions 6.2 and/or 6.4. The maximum amount of time they can store their eggs for training purposes is **55 years from the date(s) that the eggs are first placed in**

storage. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on this form**.

Embryos can only be used for training purposes if the sperm provider (their partner or sperm donor) has also given their consent.

What can happen if the form is not completed correctly?

A patient wishes for their stored eggs to be used for training purposes after they no longer require them for treatment purposes, and they tick 6.1. The clinic conducts an audit and discover the patient has not specified a period of time they consent for their eggs to be stored for training purposes. Therefore, it is not clear what their wishes were at the time. The clinic attempts to contact the patient, but they are unable to do so. Therefore, the eggs are removed from storage and disposed of before they can be used for training.

Section 7 – In the event of your death

Your patient is legally required to record what they would like to happen to their eggs or embryos if they were to die. If they would like their named partner to be able to use their eggs or embryos in a surrogacy arrangement, this section of the form will need to be completed. If they do not give their consent, their eggs or embryos must be removed from storage and disposed of upon their death and cannot be used in treatment.

The eggs or embryos may only be used within the storage period they have consented to, and if the sperm provider (their partner or sperm donor) has also given their consent.

Use of eggs or embryos for treatment purposes in the event of death (questions 7.1, 7.2 and 7.3)

If the patient consents to their eggs or embryos being used for treatment after their death, the law permits for their eggs or embryos to be stored for treatment with a surrogate for up to **10 years from the date of their death**. This is a cumulative 10-year period meaning that partners have 10 years total in which to create their embryos with their deceased partner's eggs and use them.

As treatment would involve a surrogate, additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can choose to have their eggs transferred to the surrogate using techniques such as GIFT, and/or choose to allow their eggs to be used to create embryos outside the body and for these embryos to be transferred to the surrogate. They can indicate their consent for either/both of these options in questions 7.1 and/or 7.2.

If they tick yes to either/both of these options, they need to specify how long they consent for their eggs to be stored after their death (up to a maximum of 10 years).

The patient can consent for their embryos to be transferred to the surrogate. They should be aware that the sperm provider (their partner or sperm donor) must also give consent for the embryos to be used. The patient can indicate their consent for this in question 7.3.

If they tick yes, they must specify how long they consent for their embryos to be stored after their death (up to a maximum of 10 years).

Use of eggs or embryos for training purposes in the event of death (questions 7.4 and 7.5)

If your patient dies, they may have unused eggs or embryos that are not needed, or are not suitable, for their named partner's use. In questions 7.4 and 7.5, your patient can consent for the unused eggs or embryos being used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused eggs or embryos.

Eggs can be stored for training purposes for **up to 55 years from the date(s) of first storage** and embryos can be stored for training purposes for **up to 10 years from the date that the form is signed**.

Section 8 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their eggs and embryos after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their eggs and embryos in treatment with a surrogate in the event of their mental incapacity.

Continued storage of their eggs and embryos after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their eggs or embryos may be available to be used in treatment.

Use and storage of eggs for treatment purposes in the event of loss of capacity (question 8.1)

At question 8.1 patients should record whether they wish for their eggs to be only stored, stored and used in treatment with a surrogate, or neither in the event that they lose mental capacity. Patients who wish for their eggs to be used in treatment with a surrogate whilst they are mentally incapacitated should also record how long any embryos created from those eggs after their loss of capacity may be stored (up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner).

As treatment would involve a surrogate, additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to question 8.2, remembering to sign the declaration on every page. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their eggs to be stored only) and option B (consent for their eggs to be stored and used in treatment with a surrogate) on the form. They subsequently lose mental capacity. Their partner now wants to use their eggs in treatment with a surrogate. However, as the patient selected both option A and option B, it is not clear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their eggs to be stored **but not** used in treatment with a surrogate can consent to this by selecting option A. They should then record how long they wish for their eggs to be stored. Eggs can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who wish for their eggs to be stored **and** used to create embryos outside the body and for those embryos to be used in their named partner's treatment with a surrogate whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. For surrogacy, additional screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their eggs or embryos created with their eggs after their loss of capacity to be stored. Eggs and embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their eggs to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their eggs will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of embryos for treatment purposes in the event of loss of capacity (question 8.2)

At question 8.2 patients should record whether they wish for embryos created before their loss of capacity to be only stored, stored and used in treatment with a surrogate, or neither in the event they lose mental capacity.

As treatment would involve a surrogate, additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to section 8, remembering to sign the declaration on every page. They must not select more than one option.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **but not** used in treatment with a surrogate can consent to this by selecting option A. They should then record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **and** used in their named partner's treatment with a surrogate whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. For surrogacy, additional screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their embryos to be stored (or used in treatment with a surrogate) in the event of their mental incapacity should select option C. This will mean that if they lose capacity, their embryos will need to be removed from storage and disposed of (unless they and the person whose sperm was used to create the embryos have consented to donation or training in these circumstances).

Use and storage of eggs or embryos for training purposes in the event of loss of capacity

Patients can consent to their eggs or embryos being used in training in the event that they lose mental capacity. The use of eggs or embryos for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their eggs or embryos to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their eggs or embryos being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their eggs or embryos in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to eggs or embryos being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to eggs or embryos being stored or stored and used after they lose capacity.
- Where eggs or embryos are not clinically viable for treatment.
- In the case of embryos, where the sperm provider (their partner or sperm donor) has withdrawn consent.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their eggs for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their eggs for training purposes, written consent was not provided and therefore the patient's eggs were removed from storage and disposed of once the 10-year storage period expired.

Other uses for your eggs or embryos if you die or become mentally incapacitated

If your patient wishes to consent for their eggs or embryos to be used in someone else's treatment, if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating your eggs' (WD form)
- 'Your consent to donating embryos' (ED form).

Section 9 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

MSG form
Your consent to the use and storage of sperm or embryos for surrogacy

Purpose of this form

By law (under the Act), your patient needs to give their written consent if they want their sperm or embryos to be used or stored for treatment with a surrogate. If your patient is storing sperm or embryos, they must also state in writing how long they consent to them remaining in storage.

Your patient is also legally required to record what they would like to happen to their sperm or embryos if they were to die or lose the ability to decide for themselves (become mentally incapacitated).

You should strongly recommend that your patient seeks their own legal advice before entering into a surrogacy arrangement.

Important information about death and loss of mental capacity

Your patient is legally required to record what they would like to happen to their sperm or embryos if they were to die or lose the ability to decide for themself (become mentally incapacitated). While this is perhaps not something they have considered, you need to know this, so you only use their sperm and embryos according to their wishes if this were to happen. Their sperm and embryos can only be used in accordance with their consent so if their wishes are not recorded properly, it can have serious consequences. If they do not give their consent, their sperm or embryos cannot be used in treatment with a surrogate in the event of their death or loss of mental capacity and may need to be removed from storage and disposed of.

Embryos may only be stored and used if the egg provider (their partner or egg donor) has also given their consent.

If your patient would like their partner to use their sperm or embryos in the event of their death or loss of capacity, their partner must be named in section 2 of this form. More information is provided in the guidance for section 2.

As treatment would involve a surrogate, additional consent forms and screening tests must have taken place before the patient's death or loss of capacity. If additional consent forms and screening tests are not completed before their death or loss of capacity, use of their sperm or embryos in surrogacy after their death or loss of capacity may not be possible.

What can happen if the appropriate steps are not taken in relation to treatment with a surrogate?

A patient and their partner freeze embryos created with their gametes, which are intended to be used in treatment with a surrogate. They have found a surrogate. However, even though consent forms and counselling have been completed, the required screening tests are incomplete. The patient subsequently dies. As screening tests were not completed before the death of the patient, their partner cannot use their embryos in treatment with a surrogate without a Court Order. Bringing a case to Court is expensive, often distressing and can take a long time with no guarantee over the outcome.

Clinics can only store sperm or embryos beyond the Renewal Period (or, in the case of embryos, six months after the end of the Renewal Period) if they are aware that the patient has lost capacity or died. Therefore, the clinic should inform the patient that they should organise for someone to be responsible for informing the clinic if they lose capacity or die. For couples having treatment together, this may be the other partner. It is particularly important that single patients who wish for storage to continue in the event they lose capacity are aware that someone else (eg, a relative or friend) will need to inform the clinic if this happens. The discussion and decision should be recorded on the 'Record of information provided before obtaining consent'. It is important to ensure if a relative or friend contacts the clinic to notify that a patient has either died or lost capacity that patient confidentiality is not breached, even by confirming that there is material in storage. Similarly, the patient should get in touch with the clinic as soon as possible if they are certified as having regained capacity within the 10-year period (or any lesser period the patient has consented to).

Section 2 – About the surrogate (if known at the time of consent)

The patient should use this section to enter information about their surrogate, if this information is known at the time of consent. This section (and the equivalent section on the SPP) must be completed to satisfy legal parenthood conditions. Without a named surrogate, your patient might not (depending on their particular circumstances) be the other legal parent at birth and will have to apply for a parental order. More information can be found on this in section 9.

If the patient does not have a particular surrogate in mind, they should not be deterred from completing this form. However, as soon as they identify a surrogate, they should contact the clinic with a view to completing the MSG form and naming the surrogate.

Consent is usually confined to the use of the surrogate named on this form. Therefore, it is essential that your patient contacts you if their proposed surrogate changes. The named surrogate on the SPP and WSG or MSG forms need to be the same. If your patient updates this MSG form with a new surrogate's name, then they need to update the SPP form with the new surrogate's name too.

Section 3 – Your partner's details (if applicable)

The patient should use this section to enter information about their partner, if this is applicable to them at the time of consent. This is important for the clinic to know who is 'having treatment together' with the patient and is crucial for the partner to be able to continue with the treatment if the patient dies; only the named partner can use the patient's sperm or embryos if the patient dies and has consented to posthumous use.

What can happen if the partner is not named on the form?

A patient has sperm in storage and is undergoing a surrogacy arrangement with their partner but does not name their partner on the form. The patient subsequently dies. The partner now wants to use the stored sperm in the surrogacy arrangement. However, because the patient did not name their partner on the form, their partner is unable to use the stored sperm.

You should remind your patient that if their circumstances change after they have completed this consent form (eg, if they separate from their named partner or meet a new partner with whom they would wish to have treatment), they must contact the clinic to complete a new consent form that reflects their current wishes.

What can happen if the patient does not inform the clinic of their new circumstances?

A patient and their partner are storing embryos for use in surrogacy before the sperm provider undergoes cancer treatment. The patient later separates from their partner and subsequently meets a new partner with whom they would like to have treatment. They subsequently die and because they did not amend their consent to include their new partner's name, their new partner cannot use their embryos in treatment, but their ex-partner may still be able to do so.

Section 4 – About the surrogacy arrangement

Your patient can provide their consent to their **sperm** being transferred to a surrogate using artificial insemination in question 4.1. They can also provide their consent to their **sperm** being used to create embryos in vitro and for those embryos being transferred to the surrogate. They can do this by ticking the yes box at 4.2.

If they are consenting for their **embryos** to be used, they can provide their consent to the embryos already created using their sperm being transferred to the surrogate. They can do this by ticking the yes box at 4.3. The egg provider (their partner or egg donor) must also give their consent for embryos to be used.

Section 5 – Storing sperm and embryos

If your patient wishes to store their sperm and/or embryos, they must tick the yes box at 5.1 and/or 5.2. They must also specify how long they want their sperm and/or embryos to be stored.

The law allows for sperm and embryos to be stored for use in treatment with a surrogate for any period up to a **maximum of 55 years from the date(s) that the sperm or embryos are first placed in storage**. However, consent needs to be renewed every 10 years. Therefore, the patient can consent to storage of sperm or embryos for 10 years at a time (calculated from the date the sperm or embryos were first placed in storage or the end of the previous Consent Period), after which they will need to renew their consent if they wish for storage to continue. If consent is not renewed before the end of the renewal period, then consent is taken to be withdrawn.

Embryos can only be stored if the egg provider (their partner or egg donor) has also given their consent.

You should inform the patient that the clinic will contact them at the appropriate time to renew their consent. Therefore, you should urge the patient to keep their contact details up to date and inform you of any change in circumstances.

What can happen if the clinic does not inform the patient to keep their contact details up to date?

A patient has sperm in storage; however, the patient's phone number, email address and home address have changed since they had treatment at the clinic. The clinic does not inform the patient that they should keep their contact details up to date. It is approaching the end of the patient's Consent Period and therefore the clinic needs to contact the patient to renew their consent. As the patient's phone number, email address and home address have changed, the clinic cannot get in touch with the patient. At the end of the Renewal Period the clinic have not been able to make contact and so the patient cannot renew their consent. The patient's sperm must be removed from storage and disposed of.

Questions 5.3 and 5.4 relate to **additional storage** and should only be completed if the patient has already given initial consent for less than 10 years, or renewed their consent for less than 10 years, and now wishes to request an additional period of storage up to the end of the current Consent Period. For example, if a patient has given consent to store for an initial period of seven years, they cannot now consent for an **additional** 10 years. This is because they need to consent in 10-year blocks. Therefore, they would need to first consent for an **additional** three years. After this, they will need to **renew** their consent for a further 10 years if they wish for storage to continue.

If they have ticked yes for questions 5.3 and/or 5.4, the patient must indicate how long they want their additional period of storage to last. Any amount of time specified **will be in addition to** their existing storage period.

For example, if they consented to five years' storage and wish to consent for a further five years (10 years in total), they should state five years of storage (this is five years in addition to the five years they have already consented to). You should make your patient aware that the period they consent to should not exceed 10 years (calculated from the date of first storage or the end of the most recent Consent Period) because they are required to renew their consent every 10 years in order for storage to continue.

What can happen if a patient wants to change their consent but fills out the form incorrectly?

A patient initially consents to store their sperm for five years. However, at the end of five years they decide that they want to continue to store their sperm. The patient returns to the clinic and enter 10 years in the 'additional storage prior to renewal' section. Once five years have passed, the clinic contacts the patient to request that they renew their consent. Because the patient thinks they have given consent to 15 years total storage, they assume that the request does not apply to them, and they ignore it. They do not realise that they need to renew their consent after each 10-year period. When they return for treatment, the sperm has been removed from storage and disposed of because consent was taken as withdrawn.

Section 6 – Using sperm or embryos for training

If your patient has sperm and/or embryos left after treatment which are not needed or are not suitable for treatment, they can consent to donate these for training purposes to allow healthcare professionals to learn about, and practice, the techniques involved in fertility treatment. They can do this by ticking yes to 6.1 and/or 6.3. If they wish to donate their sperm or embryos for research purposes, they should sign a separate clinic-specific form.

If they tick yes to 6.1 and/or 6.3, they need to specify how long they consent for their sperm and/or embryos to be stored for training purposes in questions 6.2 and/or 6.4. The maximum amount of time they

can store their sperm for training purposes is **55 years from the date(s) that the sperm is first placed in storage**. The maximum time they can store their embryos for training purposes is **10 years from the date that consent is given on this form**.

Embryos can only be used for training purposes if the egg provider (their partner or egg donor) has also given their consent.

What can happen if the form is not completed correctly?

A patient wishes for their stored sperm to be used for training purposes after they no longer require it for treatment purposes, and they tick 6.1. The clinic conducts an audit and discovers the patient has not specified a period of time they consent for their sperm to be stored for training purposes. Therefore, it is not clear what their wishes were at the time. The clinic attempts to contact the patient, but they are unable to do so. Therefore, the sperm is removed from storage and disposed of before it can be used for training.

Section 7 – In the event of your death

Your patient is legally required to record what they would like to happen to their sperm or embryos if they were to die. If they would like their named partner to be to able use their sperm or embryos in a surrogacy arrangement, this section of the form will need to be completed. If they do not give their consent, their sperm or embryos must be removed from storage and disposed of upon their death and cannot be used in treatment.

The sperm or embryos may only be used within the storage period they have consented to, and if the egg provider (their partner or egg donor) has also given their consent.

Use of sperm or embryos for treatment purposes in the event of death (questions 7.1, 7.2 and 7.3)

If the patient consents to their sperm or embryos being used for treatment after their death, the law permits for their sperm or embryos to be stored for treatment with a surrogate for up to **10 years from the date of their death**. This is a cumulative 10-year period meaning that partners have 10 years total in which to create their embryos with their deceased partner's sperm and use them.

As treatment would involve a surrogate, then additional consent forms and screening tests must have taken place before the patient's death. Please see the section above titled 'Important information about death and loss of capacity' for further information.

The patient can choose to have their sperm transferred to the surrogate using artificial insemination, and/or choose to allow their sperm to be used to create embryos outside the body and for these embryos to be transferred to the surrogate. They can indicate their consent for either/both of these options in questions 7.1 and/or 7.2.

If they tick yes to either/both of these options, they need to specify how long they consent for their sperm to be stored after their death (up to a maximum of 10 years).

The patient can consent for their embryos to be transferred to the surrogate. They should be aware that the egg provider (their partner or egg donor) must also give consent for the embryos to be used. The patient can indicate their consent for this in question 7.3.

If they tick yes, they must specify how long they consent for their embryos to be stored after their death (up to a maximum of 10 years).

Use of sperm or embryos for training purposes in the event of death (questions 7.4 and 7.5)

If your patient dies, they may have unused sperm or embryos that are not needed, or are not suitable, for their named partner's use. In questions 7.4 and 7.5, your patient can consent for the unused sperm or embryos being used for training purposes. If they tick yes, they need to indicate how long they consent for storage of their unused sperm or embryos.

Sperm can be stored for training purposes for **up to 55 years from the date(s) of first storage** and embryos can be stored for training purposes for **up to 10 years from the date that the form is signed**.

Section 8 – In the event of your mental incapacity

In this section, your patient should record whether they consent to:

- the continued storage of their sperm and embryos after their loss of capacity, **and/or**
- their partner (named in section 2 of this form) using their sperm and embryos in treatment with a surrogate in the event of their mental incapacity.

Continued storage of their sperm and embryos after their loss of capacity means that they can be stored without being used for treatment whilst the patient lacks capacity. Then, in the event the patient regains capacity, their sperm or embryos may be available to be used in treatment.

Use and storage of sperm for treatment purposes in the event of loss of capacity (question 8.1)

At question 8.1 patients should record whether they wish for their sperm to be only stored, stored and used in treatment with a surrogate, or neither in the event that they lose mental capacity. Patients who wish for their sperm to be used in treatment with a surrogate whilst they are mentally incapacitated should also record how long any embryos created from that sperm after their loss of capacity may be stored (up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner).

As treatment would involve a surrogate, additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to question 8.2, remembering to sign the declaration on every page. They must not select more than one option.

What can happen if more than one option is selected?

A patient selects both option A (consent for their sperm to be stored only) and option B (consent for their sperm to be stored and used in treatment with a surrogate) on the form. They subsequently lose mental capacity. Their partner now wants to use the stored sperm in treatment with a surrogate. However, as the patient selected both option A and option B, it is unclear what their wishes were, and this issue may need to be resolved in court.

Patients who, in the event of their mental incapacity, wish for their sperm to be stored **but not** used in treatment with a surrogate can consent to this by selecting option A. They should then record how long they wish for their sperm to be stored. Sperm can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who wish for their eggs to be stored **and** used to create embryos outside the body and for those embryos to be used in their named partner's treatment with a surrogate whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. For surrogacy, additional screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their sperm or embryos created with their sperm after their loss of capacity to be stored. Sperm and embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their sperm to be stored (or used in treatment) should select option C. This will mean that if they lose capacity, their sperm will need to be removed from storage and disposed of (unless they have consented to donation or training in these circumstances).

Use and storage of embryos for treatment purposes in the event of loss of capacity (question 8.2)

At question 8.2 patients should record whether they wish for embryos created before their loss of capacity to be only stored, stored and used in treatment with a surrogate, or neither in the event they lose mental capacity.

As treatment would involve a surrogate, additional consent forms and screening tests must have taken place before the patient's loss of capacity. Please see the section above titled 'Important information about death and loss of capacity' for further information.

Your patient should select **either** option A, option B **or** option C. Once they have ticked the box next to an option, they should complete any questions related to that option and then go to section 8, remembering to sign the declaration on every page. They must not select more than one option.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **but not** used in treatment with a surrogate can consent to this by selecting option A. They should then record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner. This could then be extended by the patient if they regain capacity within 10 years.

Patients who, in the event of their mental incapacity, wish for their embryos to be stored **and** used in their named partner's treatment with a surrogate whilst they are mentally incapacitated can consent to this by selecting option B. Only patients with a named partner should select this option. For surrogacy, additional screening tests must take place before the patient loses capacity. Your patient should record how long they wish for their embryos to be stored. Embryos can be stored for up to a maximum of 10 years from the date loss of capacity was certified by a registered medical practitioner.

Patients who regain capacity within 10 years (or such shorter period consented to) can renew their consent to storage.

Patients who, in the event of their mental incapacity, do not wish for their embryos to be stored (or used in treatment with a surrogate) in the event of their mental incapacity should select option C. This will mean that if they lose capacity, their embryos will need to be removed from storage and disposed of (unless they and the person whose eggs were used to create the embryos have consented to donation or training in these circumstances).

Use and storage of sperm or embryos for training purposes in the event of loss of capacity

Patients can consent to their sperm or embryos being used in training in the event that they lose mental capacity. The use of sperm or embryos for training purposes in these circumstances is complex and depends on a variety of factors specific to the patient and their individual circumstances. For this reason, consent should be recorded on a separate consent form – the MIT. Guidance on how to complete this form can be found in this document.

Not every patient will need to complete the MIT, only those who wish for their sperm or embryos to be used in training in the event of their mental incapacity. It is important to note and explain fully to patients that if a patient consents to their sperm or embryos being used in training, they may not be available for treatment if the patient then regains capacity. However, you should discuss the possibility with each patient, and you should make patients aware that it may be possible to store or use their sperm or embryos in training where they must otherwise be removed from storage and disposed of. For example:

- Where the patient has consented to sperm or embryos being stored after loss of capacity, however the period of 10 years (or any lesser period consented to) after loss of capacity has ended and the patient has not regained capacity.
- Where the patient has not consented to sperm or embryos being stored or stored and used after they lose capacity.
- Where sperm or embryos are not clinically viable for treatment.
- In the case of embryos, where the egg provider (their partner or egg donor) has withdrawn consent.

What can happen if written consent for training purposes is not provided?

A patient discusses the potential use and storage of their sperm for training purposes with their clinician and they are happy for this to happen if they lose mental capacity. However, the clinic does not prompt them to complete the MIT form. The patient subsequently loses mental capacity as a result of a brain injury. Although they provided verbal consent for the storage and use of their sperm for training purposes, written consent was not provided and therefore the patient's sperm was removed from storage and disposed of once the 10-year storage period expired.

Other uses for your sperm or embryos if you die or become mentally incapacitated

If your patient wishes to consent for their sperm or embryos to be used in someone else's treatment if they were to die or become mentally incapacitated, there are a number of considerations. This includes whether they are eligible, what screening tests are required and the lifelong implications of donation. Depending on their situation, they will also need to complete one of the following consent forms:

- 'Your consent to donating your sperm' (MD form)
- 'Your consent to donating embryos' (ED form).

Section 9 – Registration as legal parent after death

If the patient has given consent to their sperm or embryos being used after their death, they may also wish to consent to being registered as the legal parent of any child that is born as a result of their partner's treatment. This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. They can do this by ticking yes at 9.1. Registration will be subject to the birth mother electing, in writing, for the patient to be registered as the legal parent within 42 days of the birth of the child. For more information about this, the patient should seek their own legal advice.

The patient needs to have completed section 2 of this form, naming a surrogate, for the legal parenthood conditions to have been satisfied. The absence of a named surrogate will prevent the operation of legal parenthood conditions in the context of a surrogacy arrangement and may mean that if your patient dies, they will not be registered as the legal parent even if they have signed this section.

It is important to note that only one of the intended parents can be a legal parent at birth as the surrogate will always be the first legal parent (and there can only be two). If your patient signs this section, but their partner also completes an SPP, the partner, being the nominated parent, will be the legal parent at birth. The law around this is highly complex and you should strongly recommend that your patient seeks independent legal advice.

Section 10 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Can you require that a patient's consent period is linked to their funding or payment plan?

You should not direct your patient to consent to store for less time to tie in with funding or payment plans. Any practical arrangements for payment should be kept separate to consent. Missing payments can be made retrospectively but gaps in consents cannot be fixed at a later date. If your clinic has a separate contractual arrangement, you should draw the terms of the contract to the patient's attention. You should explain the implications for patients if they fail to pay their storage fees or if funding ends eg, that storage may not continue for the period they have specified in this form.

What if the patient wants to change their consent?

If a patient wishes to change their consent for any reason, they should complete a new form. The new form will supersede any previously completed forms. The clinic should keep all copies of previously completed forms.

LC form
Stating your spouse or civil partner's lack of consent

Purpose of this form

By law your patient's spouse or civil partner will automatically be the legal parent of any child born from their fertility treatment (even though they may not be the biological parent) unless it can be shown that they did not consent to their treatment.

If your patient does not wish for their spouse or civil partner to be the legal parent of any child born as a result of their treatment, they are strongly advised to seek their own legal advice. If legal parenthood is disputed, they will need to provide appropriate evidence to demonstrate that their spouse or civil partner did not consent to their treatment.

Whilst any dispute is for the family court and/or births registrar to determine, this form allows your patient to provide the facts about why their spouse or civil partner did not consent at the time of treatment.

It is important that clinics and patients are aware that the LC form does not guarantee that the estranged partner will not be the legal parent, it is simply a way of documenting lack of consent in case legal parenthood is disputed and evidence is required. Any dispute is for the family court and/or births registrar to determine.

Section 2 – About your spouse or civil partner

The patient should enter their spouse or civil partner's details here.

What can happen if the spouse or civil partner is not named on the form?

A patient that is single is having treatment, however, they are still legally in a civil partnership. They want to state their civil partner's lack of consent to treatment on this form, but they do not name their civil partner on this form. A child is born from the fertility treatment. As the patient did not name their civil partner on the form, the civil partner will be legally recognised as the child's legal parent.

Section 3 – Stating your spouse or civil partner's lack of consent

If your patient wishes to state their spouse or civil partner's lack of consent, they can tick the box at 3.1. They should then provide appropriate evidence on the next page of the form to demonstrate why their spouse or civil partner does not consent to their treatment (eg, if they are separated from their partner and they are unaware of their treatment).

Section 4 – Declaration

LC form
Stating your spouse or civil partner’s lack of consent

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

WCS form Withdrawing your consent to the storage of your own eggs, sperm and embryos

Purpose of this form

By law (under the Act), if your patient wants to vary or withdraw their consent, they need to do this in writing.

Consent can be varied or withdrawn any time until the point of egg, sperm or embryo transfer.

Section 2 – About your partner

This section should only be completed if your patient is withdrawing consent to the storage of their eggs, sperm or embryos in relation to treatment with a past or current partner.

Section 3 – Withdrawing your consent to the storage of your eggs, sperm or embryos

Withdrawing consent to storage of eggs, sperm and embryos (question 3.1)

The patient can choose to withdraw their consent to the storage of their **eggs or sperm** for any purpose in option A. They can choose to withdraw their consent to the storage of their **embryos** for any purpose in option B. If they tick either option A or B, their eggs, sperm or embryos will be removed from storage and disposed of.

It should be noted that if your patient withdraws their consent to the storage of embryos, if the other egg or sperm provider does not want to withdraw their consent to the storage of embryos, then the embryos may remain in storage for up to 12 months after your patient withdraws their consent. The embryos cannot be used in this 12-month period. If the period to which effective consent to storage was previously given expires before the 12 months, embryos must be removed from storage and disposed of by that date.

Withdrawing consent to storage for treatment, and consenting to storage for training (question 3.2)

The patient can choose to withdraw their consent to the storage of their **eggs or sperm** for use in treatment, and instead give consent to the storage of their eggs or sperm for training purposes in option A. If the patient ticks option A, they also need to complete question 4.1.

The patient can choose to withdraw their consent to their **embryos** for use in treatment, and instead give consent to the storage of their embryos for training purposes in option B. If the patient ticks option B, they also need to complete question 4.2.

It should be noted that both the egg and sperm provider need to consent for the embryos to be used for training purposes.

Section 4 – Storage of eggs, sperm or embryos for training purposes

The patient only needs to complete this section if they have consented to the storage of their eggs, sperm or embryos for training purposes.

Storage of eggs or sperm for training purposes (question 4.1)

If the patient ticked option A in question 3.2, they need to complete this section, as they consented to the storage of their eggs or sperm for training purposes. The patient needs to specify how long they consent to the storage of their eggs or sperm for this purpose.

Eggs or sperm can be stored for training purposes for a maximum of **55 years from the date(s) that the eggs or sperm are first placed in storage**.

If they consent to their eggs or sperm being in storage for less than 55 years, then they need to include the amount of time that their eggs or sperm have already been in storage. For example, if their eggs or sperm have already been stored for 10 years, and they wish to store their eggs or sperm for training purposes for a further 10 years, then they should write 20 years in the box.

What can happen if the form is not completed correctly?

A patient wants to withdraw their consent to their sperm being stored for use in treatment. They decide that instead they want to give consent to the storage of their sperm for training purposes. The patient's sperm has already been in storage for two years and they now want to consent to storage for training purposes for five years. However, the patient enters five years on the form instead of seven years. After five years, the patient's sperm can no longer be used for training purposes and must be removed from storage and disposed of.

Storage of embryos for training purposes (question 4.2)

If the patient ticked option B in question 3.2, they need to complete this section, as they consented to the storage of their embryos for training purposes. The patient needs to specify how long they consent to the storage of their embryos for this purpose. The embryos may only be stored and used if both the egg and sperm provider have given their consent.

Embryos can be stored for training purposes for **up to 10 years from the date that the form is signed**.

Section 5 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

WCU form
Withdrawing your consent to use of your eggs, sperm or embryos in someone else's treatment

Purpose of this form

By law (under the Act), if your patient (including a donor) wants to withdraw their consent to anything they have previously consented to, they need to do this in writing.

Consent can be varied or withdrawn any time until the point of egg, sperm or embryo transfer.

This form should only be completed if your patient no longer wishes for their eggs, sperm or embryos to be **used** for the treatment of a previously named partner or someone else (donation or surrogacy) but does want to continue storing their material for their own treatment.

Completing this form does not withdraw your patient's consent to their eggs, sperm or embryos **remaining in storage**. If they wish to withdraw their consent to the **storage** of their eggs, sperm or embryos, they will need to complete the WCS form.

Patients (including donors) have a right to withdraw consent at any time before treatment. They should be fully informed about the implications of the withdrawal of their consent, and they should be offered full implications counselling.

You should consider whether it is appropriate to discuss the possibility of a partial withdrawal of consent with the patient or donor (this may be especially relevant for donors). This could mean, for example:

- that a donor withdraws their consent to all their stored eggs or sperm but allows for embryos already created to remain in storage
- that a donor withdraws their consent for their eggs, sperm or embryos to be used in the treatment of new patients, but they allow for their eggs, sperm or embryos to be used in the treatment of patients who have already had a child with the donated material and would like to have further treatment for a genetic sibling, or
- that a patient withdraws consent for some eggs, sperm or embryos to be stored and used in treatment but not others.

However, a donor's legal rights to withdraw consent should be respected and conversations about withdrawal should be handled with sensitivity.

Where the donor opts for a partial withdrawal of consent, this should be indicated in the patient notes.

Section 2 – About your partner

This section should only be completed if your patient is withdrawing consent in relation to treatment with a past or current partner.

Section 3 – About your surrogate

This section should only be completed if your patient is withdrawing consent in relation to treatment with a named surrogate.

Section 4 – Your withdrawal of consent

Your patient can choose to withdraw their consent to their eggs, sperm or embryos being **used** in a named partner's treatment or in someone else's treatment (donation or surrogacy).

Section 5 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

WCP form Withdrawing your consent to legal parenthood

Purpose of this form

By law (under the Act), if your patient wants to withdraw their consent to anything they have previously consented to, they need to do this in writing.

Your patient can vary or withdraw their consent to parenthood up to the point of embryo transfer or insemination.

Section 2 - About your partner, the intended parent or the surrogate

This section should be completed to enter information about the partner, the intended parent or the surrogate. If the person completing this form is the patient's partner, the patient or the surrogate, this section needs to be completed.

Section 3 - Why are you completing this form?

The person completing this form should tick the situation that applies to them. If they tick options A, B, C or D, they should have named someone in section 2 of this form.

Section 4 - Withdrawing consent to being the legal parent

This section can only be completed if the person completing the form: is the partner of someone receiving treatment; if donor sperm or embryos (created outside the body using donor sperm) are being used in their partner's treatment; and they are not married or in a civil partnership.

If their partner has already had an embryo transfer or insemination, the person completing the form cannot withdraw their consent to being the legal parent of the resulting child. They also cannot withdraw their consent to being the legal parent of any child that has already been born.

What can happen if this form is not completed before the birth of a child?

A couple are undergoing fertility treatment and have embryos created with patient eggs and donor sperm in storage. They are not married or in a civil partnership but have completed all the relevant forms so that the partner will be the legal parent at birth. They separate; however, the patient subsequently returns for further treatment with the embryos. As a result of the treatment, the patient gives birth. Their partner does not want to be the legal parent of the child, but they did not complete this form before the birth of the child. They have now automatically been registered as the legal parent of the child.

Section 5 - Withdrawing consent to your partner being the legal parent

This section can only be completed if the person completing the form: is the person receiving treatment; they are not married to or in a civil partnership with their partner; and donor sperm or embryos (created outside the body using donor sperm) are being used in their treatment.

If they have already had an embryo transfer or insemination, they cannot withdraw their consent to their partner being the legal parent of any resulting child. They also cannot withdraw their consent to their partner being the legal parent of any child that has already been born.

Section 6 - Withdrawing consent to being the legal parent (surrogacy)

This section can only be completed if the person completing the form: is the surrogate's partner (where they are not married or in a civil partnership and are not the biological father); or they are commissioning a surrogacy arrangement and they are the intended father (where they are not the biological father, unless someone else has been nominated); or they are commissioning a surrogacy arrangement and they are the intended female parent.

Section 7 - Withdrawing consent to your partner, or the nominated intended parent, being the legal parent (surrogacy)

This section can only be completed if the person completing the form is the surrogate withdrawing their consent to: their partner being the legal parent (if they are not married or in a civil partnership and they are using sperm or embryos created from a donor or man other than their partner); or the intended father being the legal parent (where he is not the biological father, unless someone else has been nominated); or the intended female parent being the legal parent.

Section 8 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

PBR form
Your consent to being registered as the legal parent in the event of your death

Purpose of this form

By law (the 2008 Act), the partner who is married or in a civil partnership with a woman receiving treatment using donor sperm, or embryos created with donor sperm, will automatically be the legal parent of any child born from their treatment.

For a partner who is not providing gametes and who wishes to be registered as the legal parent in the event of their death, you should be aware that the embryo must have been created before their death for this to happen. For example, a couple are having treatment together using the patient's own eggs and donor sperm. The embryo(s) must be created before the death of the partner (who is not providing gametes).

This form has been designed to allow the partner of a woman undergoing treatment using donor sperm to consent to being registered as the legal parent in the event of their death. This process is known as posthumous birth registration. This only applies in cases where embryos (that were created whilst the partner was still alive) are transferred to the partner after their death. If the partner is married or in a civil partnership to the woman having treatment, they should complete this form.

If your patient and their partner are using donor sperm but are not married or in a civil partnership the partner should complete the HFEA 'Your consent to being the legal parent' (PP form) and not this form.

A partner should complete this form if:

- they are married or in a civil partnership with their partner
- their partner is receiving treatment using embryos created outside the body (in vitro) using donor sperm and either their own eggs, donor eggs or their partner's eggs, and
- they wish to be registered as the legal parent to any child born if they die before embryos (that were created before their death) are transferred to their partner.

This consent only applies to embryos created with donor sperm before the partner's death. If embryos are created with donor sperm after their death, it is not possible for them to be named as the father or second legal parent, even if they have given their consent.

Your patient's partner must sign the form themselves. They may not direct someone else to complete and sign the form for them.

The partner may change their consent at any time by submitting a new copy of the consent form to change their consent. You should record in the patient notes where a person has changed their consent, and where new forms have been signed.

Section 2 - About your partner

The patient's partner must include the patient's details in section 2 of this form.

Birth registration in the event of your death (question 2.1)

In question 2.1, your patient's partner can say whether, in the event of their death, they would like to be registered as the legal parent of any child born from treatment (with embryos created before the partner's death and provided to the patient after their death). This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. Registration will be subject to the birth mother electing, in writing, for the patient to be registered as the legal parent within 42 days of the birth of the child. For more information about this, they should seek their own legal advice.

What can happen if the form is not completed correctly?

The patient, who is undergoing treatment, is in a civil partnership. Their partner assumed that because they are in a civil partnership, they would automatically be registered as the legal parent of any child born with embryos created using donor sperm in the event of their death. The clinic does not prompt them to complete a PBR form. Therefore, they do not complete the PBR form. As a result of this, if they die, they may not be the legal parent of the child born.

Section 3 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

The following FAQs may be helpful

Who needs to complete the PBR form?

The married or civil partner of a woman who is undergoing treatment, where embryos are created using donor sperm, may complete this form, so that they can provide consent to being posthumously registered as the legal parent.

Can the married or civil partner of a patient who is currently storing embryos created using donor sperm, but who has not previously completed either a PP or a PBR form, now complete the PBR form?

Yes, if the married or civil partner wishes to consent to posthumous birth registration, they can complete a PBR form now.

If the married or civil partner of a woman who is undergoing treatment with embryos created using donor sperm has already filled in a PP form, do they now need to fill in a PBR form?

No, if the married or civil partner completed a PP form before the PBR form being introduced, they do not need to complete the PBR form now.

Does a PBR form need to be completed by partners who are married to, or in a civil partnership with, a woman undergoing a donor insemination (DI) cycle?

In the case of a DI cycle, a PBR form does not need to be completed as embryos have not been created and stored. The law does not provide for posthumous parenthood when a partner dies before DI treatment, as no embryos would have been created before their death.

If a married or civil partnership same sex female couple used eggs from one partner and donor sperm to create embryos for treatment, do both partners need to complete the PBR form?

The married or civil partner of a woman undergoing treatment with embryos created using donor sperm may complete the PBR form so that they can provide consent to being posthumously registered as the legal parent.

The partner who is undergoing treatment may also complete the PBR form so that they can provide consent to being posthumously registered as the legal parent, in the unfortunate event that they die before embryo transfer, and their partner undergoes treatment using the embryos instead. For this to happen, the conditions of Section 46 (Embryo transferred after death of civil partner [or wife] or intended female parent) of the HFE Act 2008 must be met and consent for posthumous use of the embryos must be in place.

Every patient must be given the opportunity to have a detailed conversation with clinic staff to ensure their wishes are fully understood and the necessary consents are in place for all scenarios.

It is important to remember that the legal parenthood consent forms are designed as a means for patients to record their consent, however that consent may be invalid or ineffective if the relevant consent forms are not completed correctly and the necessary statutory provisions pertaining to legal parenthood have not been met. The statutory provisions relating to legal parenthood are set out in Sections 35 to 47 of the HFE Act 2008 and relevant guidance can be found in the **Code of Practice** (Guidance note 6: Legal parenthood). This law in this area can be very complex where posthumous issues are involved, and legal advice is recommended.

WP form
Your consent to your partner being the legal parent

Purpose of this form

By law (the 2008 Act), the partner of a woman receiving treatment using donor sperm, or embryos created with donor sperm, can be the legal parent of any child born from the treatment – as long as both the patient and their partner give their written consent to this before the sperm, egg or embryo transfer. The WP form allows your patient to do this. Their partner should complete 'Your consent to being the legal parent' (PP form) if they are not married or in a civil partnership.

Your patient does not need to complete the WP form if they are married or in a civil partnership with the partner with whom they are receiving treatment as their partner will automatically be the legal parent. However, their partner should complete the 'Your consent to being registered as the legal parent in the event of your death' (PBR form) in order to be registered as the legal parent of any child born when embryos created with donor sperm before their death are transferred to their partner after their death.

The patient should complete this form if they:

- are receiving treatment using donor sperm, or embryos created in vitro with donor sperm
- wish for their partner to become the legal parent of any child born as a result of their treatment, and
- are not married to, or in a civil partnership with, their partner.

Section 2 – About your partner

Your patient should name their partner with whom they are having treatment in this section of the form. This information is needed for section 3 of this form.

Section 3 – Your consent

Your patient must tick the box at 3.1 to consent to their partner being the legal parent. Their partner should be named in section 2 of the form.

What can happen if the form is not completed correctly?

A patient received treatment using donor sperm. They are in a long-term relationship with their partner who, together with the patient, wished to be the legal parent of the child born following the treatment. The couple assumed that because they are having treatment together, and the partner put their name on the birth certificate, that the partner is the legal parent. Both were unaware that they should have provided consent on the WP and PP forms before treatment took place. As a result, the partner may not be recognised as the child's legal parent.

Section 4 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

PP form
Your consent to being the legal parent

Purpose of this form

By law (the 2008 Act), the partner of a woman receiving treatment using donor sperm, or embryos created with donor sperm, can be the legal parent of any child born from their treatment – as long as both the patient and their partner give their written consent to this before sperm, egg or embryo transfer. The PP form allows your patient's partner to do this. Your patient should complete 'Your consent to your partner being the legal parent' (WP form) if they are not married or in a civil partnership with their partner.

Your patient's partner does not need to complete the PP form if they are married or in a civil partnership with your patient with whom they are receiving treatment, as they will automatically be the legal parent. However, they should complete the 'Your consent to being registered as the legal parent in the event of your death' (PBR form) in order to be registered as the legal parent of any child born when embryos created with donor sperm before their death are transferred to their partner after their death.

If your patient and their partner are not married nor in a civil partnership, the partner must sign this form to be recognised as the legal parent of any child born from their partner's treatment.

Section 2 – About your partner

Your patient should name their partner with whom they are having treatment in this section of the form. This information is needed for section 3 of this form.

Section 3 – Your consent

Your patient's partner must tick the box at 3.1 to consent to being the legal parent of any child born from their partner's treatment. Your patient should be named in section 2 of the form.

What can happen if the form is not completed correctly?

A patient received treatment using donor sperm. They are in a long-term relationship with their partner who, together with the patient, wished to be the legal parent of the child born following the treatment. The couple assumed that because they are having treatment together, and the partner put their name on the birth certificate, that the partner is the legal parent. Both were unaware that they should have provided consent on the WP and PP forms before treatment took place. As a result, the partner may not be recognised as the child's legal parent.

Section 4 – In the event of your death

In question 4.1, your patient’s partner can say whether, in the event of their death, they would like to be registered as the legal parent of any child born from treatment (with embryos created before the partner’s death and provided to the patient after their death). This will mean that their name, place of birth and occupation can be entered on the register of births as the legal parent. For more information about this, they should seek their own legal advice.

Section 5 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

CD form
Your consent to disclosing identifying information

Purpose of this form

You hold identifying information about your patients such as their name, address and date of birth as well as sensitive information about their treatment or care. By law, you must submit some of this information to us to be stored on the HFEA Register.

Sometimes you may need to share some of your patient's identifying information with other parties including their GP, other healthcare professionals, auditors, clinical commissioning groups and administrative staff. You or we may also want to share some of this information for research purposes.

Section 33A of the Human Fertilisation and Embryology (HFE) Act 1990 (as amended) places a strict prohibition on the disclosure of certain information, as defined by section 31(2) of the Act. There are, however, a number of exceptions to this set out in section 33A(2)(a) to (t); one of these permits disclosure with the consent of the patient.

The CD form allows your patient to provide their consent to sharing their information for any or all of the reasons outlined above. You may have additional disclosure consent forms for specific purposes in your clinic. If you do, you should ensure these meet the requirements of the HFE Act 1990 (as amended) and seek your own legal advice before using them alongside the HFEA CD form.

We have found that the most significant factors contributing to whether a patient consents to disclosure for research are:

- how they are given information about disclosing their identifying information, and
- whether the staff giving that information perceive consent to disclosure to be important and desirable (those centres who do report high rates of consent to disclosure for research).

There are also two other versions of the CD form to allow patients to give consent in two stages. 'Part one – general purposes' allows them to consent to sharing identifying information to support their care and treatment only and 'Part two – research purposes' allows them to consent to sharing their identifying information to support advances in medical research.

The CD form is available as two separate forms because it is useful to obtain the consent in section 3 at the start of a patient's treatment (for example, to enable contact with the patient's GP), whereas it is more suitable to obtain consent to disclosure of identifying information for research purposes later in a patient's treatment, when patients have a better understanding of the consent implications.

Section 2 – About your partner

Your patient should name their partner with whom they are having treatment in this section of the form.

Section 3 – Disclosing your identifying information to support your care/treatment

Your patient must make it clear whether they consent to identifying information about them being disclosed to support their care and treatment. They must tick the options they consent to in question 3.1.

You have an obligation to ensure your patients' information is kept confidential. Only authorised staff should have access to patient-identifying information. Although staff may have the ability to access such information, only those staff members directly involved in the care of the patient, or those who have a legitimate need to, should access patient records.

You should have information governance policies in place to prevent unauthorised access to patient records and monitor or audit staff who access patient records. For example, although you may use a hospital-wide records system, staff across the hospital would not be legally permitted to access the patient's fertility records unless it was necessary for the care of the patient.

Section 4 (section 3 in part two version) – Disclosing your identifying information to support advances in medical research

Your patient will be asked if they consent to contact and/or non-contact research to support advances in medical research. An explanation of each is included in the form.

Section 5 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

The following FAQs may be helpful

Why is it valuable for patients to consent to share their identifying information to support medical research?

Large health databases held by organisations such as the HFEA can be a valuable resource for researchers to support advances in medical research. Using a limited amount of your patient's identifying information (for example their name and date of birth), they are able to link databases together and perform research which would be otherwise impossible to do. All research is carefully reviewed by individual clinics or the HFEA before being approved.

Recent examples of research projects include:

- Health outcomes for IVF babies: exploring whether the general health of children born as a result of fertility treatment differs from that of naturally conceived children.
- Ethnicity and treatment success: exploring whether there is a link between patient ethnicity and treatment success.
- Cancer risk in children born after IVF/ICSI: this project showed no increase in the overall risk of cancer among British children born after assisted conception during the 17-year study period.

For further information about approved research, see our website.

What about information about any child born as a result of their treatment?

By consenting to their identifying information being disclosed for research purposes, your patient is also consenting to identifying information about any child(ren) born as a result of their treatment being disclosed. Legally, they are responsible for deciding whether identifying information about their child(ren) is disclosed until their child(ren) reach(es) the age of 16 or an age when they are deemed legally competent to give consent themselves.

If they want identifying information about any children born as a result of treatment to be handled differently, they should contact you to notify you of this after their child(ren) is/are born. You should submit a consent variation form to us to inform us of this (via EDI or your equivalent system).

Your patients can change the consent they give here at any time.

How do I submit information about consent to research to the HFEA Register?

From 1 April 2015, when you submit information on consent to research (ie, on patient, partner and donor registration forms) you no longer need to complete the ‘generic consent’ field. If you use EDI forms to submit this information, you will now see that this field is struck through. This will remain the case until the next major revision of data submission takes place (as part of the Information for Quality programme).

You can find the updated EDI form guidance on our website. If you have queries or problems with EDI data submission, please contact your Register Information Officer or email **register@hfea.gov.uk**.

MIT form
Your consent to storage and use of eggs, sperm or embryos for training purposes in the event you lose mental capacity

Purpose of this form

By law (under the Act) your patient is legally required to record what they would like to happen to their eggs, sperm or embryos if they were to lose the ability to decide for themselves (become mentally incapacitated) which they should already have done on another consent form before they complete this one. They must give their written consent if they want their eggs, sperm or embryos created using their eggs or sperm, to be stored and used for training purposes. If they are storing their eggs, sperm or embryos, they must also state in writing how long they consent to them remaining in storage.

Important note

The MIT does not need to be completed by every patient. Not every patient will wish for their eggs, sperm or embryos to be used in training in the event of their mental incapacity.

The use of eggs, sperm or embryos for training purposes in the event a patient loses capacity is complex and depends on a variety of factors specific to the patient and their individual circumstances. Unlike in the case of death, a patient may subsequently regain capacity and wish to use their sperm, eggs or embryos in treatment. This will not be possible if their material has already been used for training. It is important that patients understand that consenting to the use of their material in training in the event of loss of capacity would also include temporary or short-term loss of capacity.

Patients should complete this form with the close support of clinic staff to ensure that the consent they give on the MIT form lines up with the consent they have given for the storage and use of their eggs, sperm or embryos in treatment if they were to lose mental capacity. You should be aware that patients may have consented to different outcomes for their eggs, sperm or embryos.

You should discuss with patients that – if they lose mental capacity – they may or may not regain capacity and they should consider both possible outcomes to reach a decision.

You should ensure the patient is aware that their eggs, sperm or embryos will only be stored and used for training purposes provided that their consent to training given on this form does not conflict with the consent to storage and/or use for treatment purposes they have already given on the relevant treatment or storage form.

Section 2 – About your partner

If your patient has a partner with whom they are having treatment they should name them in this section of the form.

Section 3 – Storage and use for training when you lose capacity

Section 3 should only be completed by patients who have **not** consented to the continued storage of their eggs, sperm or embryos for treatment purposes if they were to lose mental capacity. For these patients, if they wish for their eggs, sperm or embryos to be stored and used for training once they lose capacity instead of being removed from storage and disposed of, they should tick yes at 3.1 for eggs, sperm or embryos.

If they tick yes at 3.1 to either eggs, sperm or embryos, in the relevant column(s) your patient should indicate how long they wish for their material to be stored for training purposes if they were to lose capacity, up to the maximum period allowed by law. Eggs and sperm can be stored for training purposes for up to 55 years from the date they were first placed in storage. Embryos can be stored for training purposes for 10 years from the date they sign this form.

You should make patients aware that, if they consent to this option, their material can be used for training purposes once the clinic is notified that the patient has lost capacity.

If this section is not relevant for the patient, they should sign the declaration on the page and move onto the next section.

Section 4 – Storage and use for training when you lose capacity and eggs, sperm or embryos can no longer be lawfully stored

Section 4 should only be completed by patients who **have** consented to the continued storage of their eggs, sperm or embryos for treatment purposes if they were to lose mental capacity (whether they have also consented to use by a partner or not).

For these patients, if they wish for their eggs, sperm or embryos to be stored and used for training if they have not regained capacity within 10 years (the maximum legal period for which eggs, sperm or embryos can be stored after loss of capacity) or any shorter period to which they consented, they should tick yes at 4.1 for eggs, sperm or embryos.

If they wish for their embryos to be stored and used for training if the other gamete provider (their partner or donor) withdraws consent to storage for treatment, they should tick yes at 4.2. Embryos can only be stored and used for training if the other gamete provider (their partner or donor) has also given consent.

If they tick yes to either 4.1 or 4.2, in the relevant column(s) your patient must indicate how long they wish for the storage and use for training to continue if they were to lose capacity, up to the maximum period allowed by law. Eggs and sperm can be stored for training purposes for up to 55 years from the date they were first placed in storage. Embryos can be stored for training purposes for 10 years from the date they sign this form.

If this section is not relevant for the patient (in other words, because they have not consented to the continued storage of their eggs, sperm or embryos were they to lose capacity) they will not need to complete section 5. However, they must sign the declaration on every page to confirm they have read all the information.

Section 5 – Storage and use for training when you lose capacity and your partner cannot use eggs, sperm or embryos in treatment because they are not clinically viable for treatment

Section 5 should only be completed by patients who have consented to their named partner using their eggs, sperm or embryos in treatment whilst they are mentally incapacitated. This section records what the patient's wishes are if eggs, sperm or embryos are not clinically viable for the treatment of their partner. For example, whilst a patient is incapacitated their partner may use their eggs or sperm to create embryos. Some (or all) of those embryos may not be clinically viable for treatment. If the patient consents to this option, any eggs, sperm or embryos which are not suitable for treatment can be used in training when they may otherwise be removed from storage and disposed of.

If patients wish for their eggs, sperm or embryos to be stored and used for training if they are not clinically viable for treatment they should tick yes at 5.1 for eggs, sperm or embryos.

If they tick yes at 5.1 to either eggs, sperm or embryos, in the relevant column(s) your patient must indicate how long they wish for the storage and use for training to continue if they were to lose capacity, up to the maximum period allowed by law. Eggs and sperm can be stored for training purposes for up to 55 years from the date they were first placed in storage. Embryos can be stored for training purposes for 10 years from the date they sign this form.

Unlike in the case of death, the patient **cannot** consent for their eggs, sperm or embryos to be used in training in the event that their partner **does not want to use** that material whilst they are incapacitated. Patients do not have this option because (unlike in the case of death) it is possible that they will regain capacity and subsequently want to use the eggs, sperm or embryos in treatment. If the embryos are created using the partner's gametes, the partner can withdraw consent to storage for treatment purposes. The patient can record their wishes if the other gamete provider (their partner or donor) withdraws consent at section 4.

Patients completing section 5 should also have completed section 4.

Section 6 – Declaration

This section must be completed in addition to the declarations at the bottom of each page. Clinics should carefully check the declarations for errors. Errors can sometimes be made with the date for example, as patients sometimes put their date of birth instead of the date that they are signing the form.

Clinics are also advised to take particular care when relying upon the representative's declaration, ideally seeking specialist legal advice beforehand. They should also only rely upon this measure in limited situations.

Annex 1

Frequently Asked Questions (FAQs): Using consent forms to consent to treatment and/or storage in the event of mental incapacity, including how to use the MIT form

These FAQs are supplementary to this guidance document, other guidance and consent forms available on the **Clinic Portal,** and the **Chair's Letter** published on 19 December 2023. It is to support clinics to use the 'Your consent to your eggs, sperm and embryos being stored and used for training purposes in the event of mental incapacity' (MIT) form and other updates to consent forms that allow patients to consent to their eggs, sperm or embryos being stored but not used were they to become mentally incapacitated.

1. Does the MIT form need to be completed by every patient?

No. Only patients who wish for their gametes or embryos to be used in training in the event of their mental incapacity need to complete the MIT.

2. How do I know when a patient needs to complete the MIT?

Clinics should discuss the possibility of gametes or embryos being used in training in the event of mental incapacity with patients during the consent to treatment and/or storage process. Patients should be aware that it may be possible to store or use their gametes or embryos for training where they would otherwise be removed from storage and disposed of. Patients who do wish to consent to this should complete the MIT.

3. How does section 5 of the WT/MT/WPT (or section 3 of the GS etc.) relate to the MIT?

Section 5 of the WT/MT/WPT forms records a patient's consent to their gametes or embryos being used in training whilst they are alive and have mental capacity. Other consent forms have equivalent sections eg, section 3 of the GS. This section records whether the patient consents to any gametes or embryos that are not needed or not suitable for use in a treatment cycle be instead stored and used for training purposes.

This section does **not** record whether a patient should complete the MIT. It only relates to training whilst a patient is alive and has mental capacity. For example, a patient completing the WT/MT/WPT may select 'No' at questions 5.1 and 5.3 but still wish to consent to their gametes or embryos being used in training in the event that they lose mental capacity, and so they would complete the MIT. On the other hand, a patient may select 'Yes' at questions 5.1 and 5.3 and **not** wish to consent to their gametes or embryos being used in training in the event that they lose mental capacity, and so they would **not** complete the MIT.

The way to establish whether a patient should complete the MIT is to provide relevant information and ask whether they want to consent to this option – please see question 2 above.

4. Should patients who had frozen gametes and/or embryos in storage before 19 February 2024 complete the new and updated forms?

We do not expect all patients who consented on the versions of the forms that were in place prior to 19 February 2024 (when the **new and updated forms came into force**) to consent again on the new and updated versions.

However, clinics should ensure that patients returning for treatment to use their stored material have been given information about the option to store without use in the event of mental incapacity. If patients wish to consent to this option, they should record their consent on the appropriate updated form (eg, the WT, MT, WPT etc.). If they wish to consent to training in the event of mental incapacity they should complete the MIT.

If the patient originally stored the material after June 2023 then please refer to the guidance issued in **the June 2023 Clinic Focus** which set out our expectations for what should happen between then and the date the forms came into force.

5. Does every patient need to complete all sections of the MIT?

Patients should only complete those sections of the MIT that are relevant to them, based on the consent they have given to treatment and storage. **'Consent Forms: A Guide for Clinic Staff'** explains the purpose of sections 3, 4 and 5. Clinics should also refer to the description of each section on the consent form itself.

This means that most patients will **not** need to complete every section of the consent form although in some cases this will be necessary.

The following examples set out what sections of the MIT will be suitable for a variety of patients, depending on what they consented to on their other consent forms.

Example 1

- Patient A is storing their sperm for fertility preservation and completes the GS. As a single person, they are not able to consent to their sperm being used in treatment in the event that they lose mental capacity and they also do not wish for it to continue to be stored in these circumstances. They select option 'B' at 5.1 of the GS. They wish to complete the MIT and should do so as follows:
  - All patients completing the MIT should complete section 1, section 2 if applicable, section 6, and sign the declaration on every page (even if they don't answer any questions on that page).
  - **Section 3 should be completed** because Patient A has **not** consented to storage (either with or without use) in the event they become mentally incapacitated.
  - **Section 4** should **not** be completed because this section is only for patients who have consented to storage (either with or without use).
  - **Section 5** should **not** be completed because this section is only for patients who have consented to **both** storage and use.

Example 2

- Patient B is having treatment as a single person. They are storing eggs and embryos created with their own eggs and donor sperm, and complete the WT. As a single person, they are not able to consent to their eggs or embryos being used in treatment in the event that they lose mental capacity however they

do wish for storage to continue in these circumstances. They select option 'A' at 7.1 and 7.2 of the WT. They wish to complete the MIT and should do so as follows:

- All patients completing the MIT should complete section 1, section 2 if applicable, section 6, and sign the declaration on every page (even if they don't answer any questions on that page).
- **Section 3** should **not** be completed because this section is only for patients who have **not** consented to storage (either with or without use).
- **Section 4 should be completed** because Patient B has consented to storage (either with or without use) in the event of mental incapacity.
- **Section 5** should **not** be completed because this only applies to patients who have consented to **both** storage and use in the event of their mental incapacity.

Example 3

- Patient C is having treatment with their partner. They are storing eggs and embryos created with their own eggs and complete the WT. In the event that they lose mental capacity, they wish for their partner to be able to use the eggs and embryos in treatment. They select option 'B' at 7.1 and 7.2 of the WT. They wish to complete the MIT and should do so as follows:
  - All patients completing the MIT should complete section 1, section 2 if applicable, section 6, and sign the declaration on every page (even if they don't answer any questions on that page).
  - **Section 3** should **not** be completed because this section is only for patients who have **not** consented to storage (either with or without use).
  - **Section 4 should be completed** because Patient C has consented to storage (either with or without use) in the event of mental incapacity.
  - **Section 5 should be completed** because Patient C has consented to **both** storage and use in the event of their mental incapacity.

Example 4

- Patient D is having treatment with their partner. They are storing sperm and embryos created with their sperm and complete the MT. In the event that they lose mental capacity, they wish for their partner to be able to use any embryos already in storage in treatment. However, they do not wish for any sperm in storage to be used in treatment. They select option 'C' at 7.1 and option 'B' at 7.2 of the MT. They wish to complete the MIT and should do so as follows:
  - All patients completing the MIT should complete section 1, section 2 if applicable, section 6, and sign the declaration on every page (even if they don't answer any questions on that page).
  - **Section 3 should be completed** because Patient D has **not** consented to storage (either with or without use) of their **sperm** in the event they become mentally incapacitated. They should select **'No'** in the **'embryos'** column because they have consented to continued storage of their embryos.
  - **Section 4 should be completed** because Patient D has consented to storage (either with or without use) of their **embryos** in the event of mental incapacity. They should select **'No'** in the **'eggs or sperm'** column because they have not consented to continued storage of their sperm.
  - **Section 5 should be completed** because Patient D has consented to **both** storage and use of their **embryos** in the event of their mental incapacity. They should select **'No'** in the **'eggs or sperm'** column because they have **not** consented to continued storage of their sperm.

6. Does the cooling off period apply if a partner (who is also a gamete provider) withdraws consent to the continued storage of embryos while the patient is mentally incapacitated?

The ‘cooling off period’ **does** apply where embryos (created with the gametes of a patient and their partner) are in storage, the patient is mentally incapacitated, and their partner wishes to withdraw consent to storage for treatment purposes. The cooling off period allows the clinic to continue to store the embryos for up to 12 months before the embryos are disposed of or used in training. Clinics should refer to the relevant guidance in the **Code of Practice.**

However, while applying the cooling off period would be lawful, it is not obligatory for the clinic to store for up to 12 months. For example, if there is no prospect that the patient will regain capacity, the clinic may take a pragmatic view on whether there is any benefit in doing so. In this very sensitive situation, the clinic should consider all the relevant risks of continuing to store, disposing of the embryos or using them in training.