



Embryo storage



The law requires that the Council receives any embryo storage extension at least one month before it is due to meet next. In addition to this, your embryo storage period must still be valid at the time the Council meets to discuss this matter. For this reason, it is important that you have given some consideration to your situation and what you wish to do with your embryos – it can be very difficult to have to make a hurried decision.

If you wish to seek an extension of your embryo storage period, your clinic can provide help to ensure that your application meets the requirements under the Act.

Who has the responsibility to apply for an extension?

If you intend to store your embryos for your own use at a later date, or if you are intending to donate your embryos but a recipient has not yet been selected, you will need to apply for an extension. Your clinic is not able to do this on your behalf.

If you have donated them to another person or couple, you may have agreed to give this person or couple the responsibility of applying to the Council for any ongoing storage extensions.

Clinics can only apply for an embryo storage extension for you if you have declared your embryos to be excess to your needs (they are then considered “excess ART embryos”) and have donated your embryos to the clinic for approved NHMRC research purposes.

What happens if I don't apply for an extension?

It is illegal for clinics to continue to store your embryos beyond ten years unless you are granted a storage period extension. If you have not made an application to extend the storage time to the Council and the authorised storage period expires, your clinic will have to allow these embryos to succumb. Under the law, Council is unable to approve an embryo storage extension once the authorised storage period has expired.

What if we can't decide what to do with our embryos?

Some people find it very difficult to reach a decision regarding their stored embryos. Every person or couple needs to consider their particular situation.

People facing these decisions are encouraged to have counselling with an ‘Approved Counsellor’ to discuss their options and to assist with decision-making. Counselling will be required if you wish to donate your embryos to someone you know, but also can benefit anyone who is considering what to do with their embryos in storage.

Talking about these issues with other couples who have undergone IVF has also helped many people facing this complex decision.

What if we can't agree, or our circumstances change?

In the situation where a couple is in disagreement, one of the couple must apply, before the end of the storage period, to the Director General of the Department of Health WA. The Director General may instruct the clinic to store the embryos until resolution of the disagreement, or a Court order is issued regarding this matter.

Where do I get more information about embryo storage?

Your clinic is able to provide you with assistance in completing an application and discussing your embryo storage issues.

You can also visit the Reproductive Technology Council website www.rtc.org.au for further information and for Council meeting dates, or contact the Reproductive Technology Council Executive Officer, on rtc@health.wa.gov.au

This document can be made available in alternative formats such as computer disc, audio tape or Braille, on request.

In vitro fertilisation (IVF) involves the creation of embryos outside of a woman's body to assist the conception of a child. In Western Australia, IVF and other assisted reproductive technologies (ART) are regulated through the *Human Reproductive Technology Act 1991* (Act). This Act also regulates matters regarding embryo storage.

Most embryos created through IVF will be used with the aim of creating a child. However, those embryos that are not used will remain in storage. Individuals or couples can be faced with making what can be a difficult decision about the future of these embryos at the end of their permitted storage period.

How long can I store my embryos?

The current law allows licensed clinics to store embryos for a maximum of ten years. Under the law, the Reproductive Technology Council (Council) may approve the storage of embryos for a period of time beyond the ten years. However, this approval must be given on a case-by-case basis and only for special reasons.

How do I know when my embryo storage period is due to expire?

Your clinic will make contact with you about any storage fees and consent matters during the storage of your embryos. Your clinic should also send you further information after nine years of storage to help you consider your options as the end of the ten year storage period approaches.



In addition, the law requires that your clinic takes *reasonable steps three months* before the end of the authorised storage period to notify you that the storage period is coming to an end for your embryo/s. For this reason, it is important that you keep your clinic updated with any changes to your contact details.

What are our options at the end of our embryo's storage period?

Individuals or both members of a couple may choose to allow their embryos to succumb (or expire) at the end of their storage.

Other possibilities include:

- a) seeking to keep your embryos for your own use at a later date;

- b) donating embryos to others undergoing fertility treatment – this option may depend on your clinic and whether donated gametes were already used to create these embryos; or
- c) donating your embryos for approved research under a National Health and Medical Research Council (NHMRC) Licence.

For any of these reasons, an embryo storage extension must be granted by the Council before the authorised storage period ends.

Aren't they our embryos to make decisions about?

Some people reasonably consider that they have a right to determine how their embryos are dealt with. While this position is understandable, the law does not include the right to hold embryos in storage indefinitely. The law requires that any extension to the storage of embryos can only be granted by Council for *special reasons*.

What special reasons can be approved by Council?

The law requires that consent to the storage of embryos must relate to the *probable future use* (implantation) of an embryo, or *probable donation for research* under an NHMRC licence.

There will be a wide variety of reasons for seeking to store embryos beyond ten years. To assist the Council to determine if these legal requirements are being met and that there are special reasons

for your application, it is recommended that the reasons for your storage extension are clearly described on the application form. Documents supporting your extension request should be included with your application.

- If you are seeking to extend the storage for your own use of your embryos, it is suggested that you include a medical report supporting that you are still eligible to access IVF.
- If your intention is to donate your embryos for use by another person or couple or to the clinic for research, it will help the application process to include documents supporting this intention to donate. This may include a signed 'consent to donate embryos' form, or verification that you have started the counselling process prior to donation.

