



Opinion by letter No 14 on sperm donation and revision of Opinion No. 27 of 8 March 2004

*Request for opinion dated 24 February 2022 from the Minister of
Social Affairs and Health*

*Adoption of the opinion by letter: Committee plenary session of 8
March 2022*

Preliminary Warning:

The committee's opinions are drafted in Dutch and French. Please consider these two language versions as official, even if translations in other languages are available.

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Your request for an opinion of 24 February 2022 regarding sperm donation and revision of Opinion No. 27 of 8 March 2004.

Minister,

By letter dated 24 February 2022, you, as Minister of Social Affairs and Health, requested the opinion of the Advisory Committee on Bioethics in the context of sperm donation. You ask the Committee to review Opinion No. 27 of 8 March 2004.

The focus of this letter opinion is the anonymity of the sex cell donor. Other aspects, such as communicating the donor conception, are addressed only when relevant for anonymity. The letter opinion primarily attempts to indicate the broad outlines and does not elaborate in detail all the ethical and practical considerations. The term 'donor' in this opinion refers to donors of sperm, eggs and embryos in the regular circuit (i.e., recognised banks and fertility centres).

General framework

The debate over anonymity is a sensitive one, with differing opinions on the interpretation of parenthood and the importance that must be given to the biological, psychological and social component. The current practice of sex cell donation is based on an understanding of parenthood which is based primarily on the intention of the candidate parents and on the social and psychological ties to the child. In addition to this position, there are several positions in which the genetic dimension of kinship, and possibly individual identity, are recognised to varying degrees. At the other end of this spectrum is a conception of kinship in which the genetic dimension predominates and in which it is believed that this dimension must be socially, if not legally, recognised for the well-being of any person born of a donation. Most current positions, however, seem to be between these two extremes and demonstrate a willingness to acknowledge the genetic dimension of kinship and of identity

in some way. This is possible, for example, by informing the child that he or she was conceived with donor material or by giving individuals conceived with donor material access to identifying information about their donor, without changing the social or legal ties of their kinship.

Main points

Communicating the donor lineage

The Committee believes that the decision whether or not to inform the child that it was conceived with donor gametes should be for the parents. It must be ensured that the parents are adequately informed, in a neutral way, about the advantages and disadvantages of disclosing or not disclosing this information. It is important in this regard that donors and recipients are informed about new social and scientific developments (such as being able to discover donor lineage through genetic testing). Guidance should be proposed to parents who want help with this decision.

Well-being of the child

Based on the scientific studies on children born via gamete donation, it can be concluded that knowing the identity of the donor is not necessary for the healthy development of the donor children. Dozens of studies have been conducted showing that the well-being, psychological development and quality of parent-child relationships of children born via gamete donation do not differ from the well-being of children born from their parents' genetic material (Zanchettin et al., 2022). Children who are not aware of their donor lineage do just as well and have just as good a relationship with their parents as those who are aware (Pennings, 2017). In addition, longitudinal studies have also been conducted on children of lesbian couples (up to age 18) with different types of donors. The outcome was that there were no differences in psychological development between the children who had an anonymous donor, an identifiable donor or a known donor (Carone et al., 2021). In other words, there is no scientific evidence that the lack of information regarding genetic origins would cause problems with the forming of the child's identity. Moreover, the formation of identity is a highly complex process that extends over a long period of time. Various elements can be part of a person's identity, and people make choices in this regard and have different needs. Information regarding lineage can, but does not have to, be part of how a person sees themselves.

Some adults born of donor gametes state that they wish to know the name of the donor and have contact with them. There may be several reasons for this. A large proportion of these people want to know out of curiosity, to get a better idea of their origins or be able to situate certain characteristics of themselves. They do not consider this information necessary for their well-being. In contrast, a number of adults indicated that they felt they experienced significant distress by not knowing the identity of the donor. They have this need because

they attach great importance to the genetic relationship for determining kinship and identity (Pennings, 2022). It is unclear how large this group is. Some people go looking and others don't. Of approximately 900 now-adult donor children in Sweden (where anonymity was abolished in 1985), 7% requested information about the donor (Lampic et al., 2022).

Multi-track policy

Current Belgian legislation imposes donor anonymity. An exception to this is the known donation whereby the donor and recipient know each other at the time of donation. The Committee is in favour of abolishing mandatory anonymity. There are insufficiently compelling reasons not to leave this decision to the individuals involved. The starting point is the autonomy of both candidate parents and donors. The Committee therefore proposes a multi-track policy whereby both donor and recipient(s) can choose from 3 options at the start of treatment or donation: anonymous (the identity of the donor and recipient is not released by the hospital), identifiable (the donor's identity can be requested by the donor child at a certain age) and known (the donor and recipient know each other at the time of donation). This multi-track policy is based on the principle that it is part of the reproductive autonomy of parents to decide to what extent they want to involve the donor in their family. The donor is given the same options as regards being identifiable and making contact. This is essential for his/her decision to donate or not. Each person has the freedom to decide for themselves whether the terms of a donation are acceptable. Matching preferences on the part of recipients and donors is the best guarantee of smooth cooperation. This choice is an agreement that the individuals involved are deemed to respect for a certain period of time (see below) and via which the people involved can agree on their other choices (such as whether or not to tell the child that he or she is descended from a donor). As with all procreation, the presumed interests of the child are defended by the parents. No child was ever consulted regarding their conception, nor the circumstances in which they were born. In a multi-track policy, the child is not granted the right to know the genetic origin. This right would have to be based on an overriding interest of the child and this interest has not been demonstrated to date. Moreover, such an interest of the child would still have to be weighed up against the interests of the other stakeholders. In principle, parents are in the best position to determine which circumstances offer the best guarantee of their (future) child's well-being. Non-directive counselling should allow the individuals involved to make an informed decision about the various options.

Offering these options should also give the individuals involved as much possibility as possible to find their values and choices reflected in mainstream practice. Indeed, research shows that both donors and recipients are turning in large numbers to social media and "matching websites"(websites that connect donors and recipients) on the Internet because they disagree with the rules imposed in the official circuit. This trend poses various risks (Pennings, in press).

Donors and recipients must also be informed from the outset that anonymity can no longer be guaranteed. People can send a saliva sample to a company that performs a DNA analysis and can trace many genetic relatives through large genetic databases (even if these individuals themselves have never donated DNA for such testing). They can then factor this into their decision to donate or not and into their choice regarding anonymity/being identified/being known. However, this development does not fundamentally change the actual aim of this choice, which is to indicate the extent to which the parents and the donor desire contact and exchange information with each other and the child.

Information management and support of the individuals involved

The choice made by the donor and recipient(s) at the time of donation may be changed at a later date if the question is raised by a donor child. For the donor child, that time can be set at age 16 or 18. This possibility can be justified by the fact that the child has since become autonomous and can now question his/her parents' choice. At the age when he or she has sufficient maturity, the child must therefore be able to put the question to the donor itself. Given the long interval, a donor who has donated anonymously may have changed his or her mind or circumstances may have changed such that the earlier decision has to be changed. The donor must be informed of the possibility of this subsequent contact at the time of donation. The child can then ask the donor from the stipulated age on, through the fertility centre in which the treatment took place, if he is willing to make contact. In this case, the fertility centre must contact the donor discreetly, so that the donor's social circle is not inadvertently informed of the donor's situation by the attempt to make contact.

The donor and child can then discuss (possibly with the fertility centre as an intermediary) how much and what additional information they want to share with each other and whether there will be direct personal contact. Counselling should be offered by the fertility centre during this process, but this is not mandatory. No unilateral decisions can be taken or imposed in this regard. In other words, the anonymity of the individuals involved cannot be waived without their consent.

The Committee also believes that all donor children, regardless of donor type, should be able to access non-identifying information about the donor if they wish. The child could request this information (provided by the donor at the time of donation, the so-called donor profile) from the fertility centre or a central database.

Being identifiable is separate from access to medical-genetic information. If experts believe that it is important for the child's health to obtain genetic information about the donor, this is possible without disclosing the donor's identity to the child or recipients. The exchange of this information is normally organised between attending doctors or hospitals.

Changes to the law

The Committee believes that a multi-track policy involves two new tasks.

The first task is to keep information about the individuals involved and their choices for a sufficiently long time. For this, they propose setting up a central database containing the details of the individuals involved. The main reason for setting up a database is so that individuals born of gamete donation have a central point to request information if they do not know at which centre their parent or parents were treated. The central database is also a better guarantee of data retention if a fertility centre closes its doors.

The second task is to support the individuals involved in their interactions if they need it. The Committee proposes entrusting this task to fertility centres. The advantages of entrusting this to fertility centres are that the necessary expertise is available there and the donor and recipient are already familiar with the centre in which they donated or received treatment.

A legal framework must be drawn up that defines both tasks and governs the modalities of information exchange between them.

Conclusion

No single solution can fully meet the expectations, needs and desires of all the individuals involved. In this complex matter, a middle ground must be found. The Committee believes that a middle ground can be found in a multi-track policy, together with the possibility for the person conceived via anonymous donor material, once they are of adult age, to ask the donor, via the fertility centre, to provide additional information and/or have personal contact.

Yours sincerely,

Paul Cosyns, President

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This letter opinion was drawn up by the select committee "anonymity of sperm donation" consisting of: Guido Pennings (chair), Paul Cosyns (Bureau representative), Jacinthe Dancot, Martine Dumont-Dagonnier, Cathy Herbrand, An Ravelingien, Véronique Van Asch and Veerle Provoost.