**Minutes of the Eighty Third Meeting of the Ethics Committee on Assisted Reproductive Technology**

**25 June 2020**

Held via zoom on 25 June 2020

**In Attendance**

Iris Reuvecamp Chairperson

Paul Copland Member

Michele Stanton Member

Mike Legge Member

Mary Birdsall Member

Tepora Emery Member

Jude Charlton Member

Sarah Wakeman ACART member in attendance

Hayley Robertson Senior Advisor, Ethics

Tania Siwatibau Administrator, Ethics

Courtney Parnell Advisor, Ethics

1. **Welcome**

The Chair opened the meeting by welcoming all present and noting apologies were received from Mania Maniapoto-Ngaia.

1. **Conflicts of Interest**

Dr Mary Birdsall declares (on an ongoing basis) that she is a shareholder in Fertility Associates and has interests on a professional and a financial basis.

1. **Confirmation of minutes from previous meeting**

The minutes from the 20 April 2020 meeting were confirmed.

1. **Application E20/39 response to reconsideration of an application for Surrogacy involving an Assisted Reproductive Procedure**

Mary Birdsall opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* ECART declined this application in April 2020 due to concerns that there is a significant risk of negative outcomes for the birth mother, the potential child and the birth mother’s existing children due to the birth mother’s health status.
* Section 18(3) of the HART Act 2004 provides that ECART may, for any reason that it considers appropriate, reconsider an application that it has previously declined if relevant new information becomes available.
* Further information has been submitted with a request for ECART to reconsider this application. The further information submitted includes the medical report for the egg donor which was missing from the original application. The report shows that the egg donor has children and considers her family complete. ECART also considered further clarification about the birth mother’s health and a number of letters of support for the surrogacy arrangement.
* The committee considered the further information provided clarifying the proposed approach for the potential child to be looked after following birth if the intending parents were not able to be present in New Zealand. The committee also noted the proposed plan for the potential child to travel from New Zealand to Australia after birth.
* The committee decided to approve the application subject to the condition that the intending parents will be present in person and will take over the care of the child immediately at birth.

**Decision**

The Committee agreed to **approve** this application subject to the condition that the intending parents will be present in person and take over care of the child immediately at birth.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/77 for Creation and Use of Embryos from donated eggs and donated sperm**

Paul Copland opened the discussion for this application. The committee considered this application in relation to the *Guidelines on the Creation and Use, for Reproductive Purposes, of Embryos created from Donated Eggs and Donated Sperm* and the principles of the HART Act 2004.

**Issues discussed included:**

* The committee noted the recipient couple’s long and difficult reproductive journey, and acknowledged the statement in the medical report that donor egg and donor sperm would give them the best chance of a child.
* Both the egg and sperm donor in this arrangement are clinic donors. The sperm donor had previously donated to the recipient couple and they have one child from his donation. They would like to use the same donor a second time to have a genetic link to their existing child.
* The egg donor and partner have children and consider their family complete.
* Cultural and religious customs have been discussed during the counselling sessions and both parties have stated that counselling has been culturally appropriate.
* The committee noted that this was a straightforward and well put together application.

**Decision**

The committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/78 for Surrogacy involving an Assisted Reproductive Procedure**

Mike Legge opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* The committee noted that a clear medical reason to justify the use of a surrogate exists and the intending parents have four embryos remaining.
* The birth mother in this application is a single woman with children, she feels that her family is complete.
* There is a within family aspect to this application as the intending mother and the birth mother are cousins. The application notes that the arrangement is openly discussed, accepted and supported by a wider family network. The relationship between the intending mother and the birth mother is described as trusting and open.
* The intending parents understand that once an embryo is transferred to the birth mother that she has the legal right to make any decisions about the pregnancy including the decision to terminate a pregnancy.
* The intending parents have sought a preliminary assessment from Oranga Tamariki.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.
* The committee noted that this was a straightforward and well put together application.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/79 for Surrogacy involving an Assisted Reproductive Procedure**

Mike Legge opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* A clear medical reason to justify the use of a surrogate exists and the committee noted that the application contains clear and comprehensive medical information.
* The intending parents and birth parents in this application are close, longstanding friends.
* The birth parents have children and consider their family to be complete. The committee noted that in individual counselling sessions, the birth mother acknowledges not enjoying pregnancy but is motivated to help her friends start a family.
* The intending parents understand that once an embryo is transferred to the birth mother that she has the legal right to make any decisions about the pregnancy including the decision to terminate a pregnancy.
* The intending parents have sought a preliminary assessment from Oranga Tamariki.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/80 for Surrogacy involving an Assisted Reproductive Procedure (and egg donation)**

Tepora Emery opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* The committee noted that a clear medical reason to justify the use of a surrogate exists.
* The birth mother in this application has children and considers her family to be complete.
* There is a within family aspect to this application as the intending mother and the birth mother are cousins. The intending parents are also godparents to the birth mothers’ children and the relationship is described as a strong familial one. Extended family are aware of and supportive of the intended arrangement.
* The egg donor in this application is a clinic donor and unknown to the parties in this application. She has consented for her donated eggs to be used in this intended surrogacy arrangement.
* The issue of termination has been discussed and the intending parents understand that once an embryo is transferred to the birth mother that she has the legal right to make any decisions about the pregnancy including the decision to terminate a pregnancy.
* The intending parents have sought a preliminary assessment from Oranga Tamariki.
* Both the intending parents and the birth parents have sought independent legal advice and the legal issues have been discussed at those sessions as well as during their counselling sessions.

**Decision**

* The Committee agreed to **approve** this application.

**Actions**

* Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/81 for donation of eggs between certain family members**

Jude Charlton opened the discussion for this application. The committee considered this application in relation to the *Guidelines on Donation of Gametes between Certain Family Members* and the principles of the HART Act 2004.

**Issues discussed included:**

* This is an application for a within family gamete donation where the recipient woman’s sister in law has offered to donate her eggs. The recipient woman’s partner and the egg donor’s partner are brothers.
* The application notes that a child would be welcomed into a network of supportive family, and intentions of openness with the child from a young age have been declared.
* The application also notes that some extended family are aware of the proposed arrangement and are supportive. The parties intend to share the news more widely should ECART approve the application and if a pregnancy is established.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/82 Creation and Use of Embryos from donated eggs and donated sperm**

Michele Stanton opened the discussion for this application. The committee considered this application in relation to the *Guidelines on the Creation and Use, for Reproductive Purposes, of Embryos created from Donated Eggs and Donated Sperm* and the principles of the HART Act 2004.

**Issues discussed included:**

* The recipient woman in this application is a single woman with a medical need for donor eggs and donor sperm.
* The egg donor does not have children and has expressed a desire to not have any children of her own. The egg donor and the recipient woman know each other. The egg donor has expressed that she views the proposed donation as a way to help the recipient woman have a family.
* The sperm donor is a clinic donor and already has children born in three recipient families from his donation.
* The medical report for the recipient woman shows some contraindications to pregnancy and the committee supported the recommendation that the recipient woman should have obstetric care should a pregnancy be established.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **E20/83 for Surrogacy involving an Assisted Reproductive Procedure**

Iris Reuvecamp opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

**Issues discussed included:**

* Mary Birdsall declared a conflict of interest. The committee decided that she should not be present for the committee’s consideration of this application.
* The intending mother in this application is a single woman and has opted to use clinic donor sperm to try and have a child. There is a clear medical need for a surrogacy arrangement due to a health condition that contraindicates pregnancy.
* The committee discussed the intending mother’s long-term condition and expressed concerns about the severity of her illness and ability to care for the child. The committee decided that it would like to see more comprehensive information about the intending mother’s condition.
* The committee considered the best interests of the potential child if the intending mother’s condition were to worsen and noted the application has support from family and that the intending mother’s sister has been appointed as a testamentary guardian. Counselling reports from sessions with the intending mother’s sister and parents are requested to support the surrogacy application.
* The committee acknowledged the difficulty in living with a long-term health condition and would like to see information regarding any relevant mental health or psychiatric history in the context of the application.
* The birth parents in this application have children and consider their family to be complete. Both children have had a chance to express their views about the arrangement in counselling sessions.

Despite the medical report for the birth mother stating that there are no contraindications in pregnancy, the committee noted concerns for the birth mother in carrying a surrogate pregnancy given her age, weight and obstetric history as risk factors that would put her at risk of developing hypertension and diabetes.

**Decision**

The Committee agreed to **defer** this application subject to further information about the health and wellbeing of the intending mother and counselling reports from sessions with the intending mother’s family.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/84 for Preimplantation Genetic Diagnosis with HLA Tissue Typing**

Paul Copeland opened the discussion for this application. The committee considered this application in relation to the *Guidelines on Preimplantation Genetic Diagnosis with Human Leucocyte Antigen Tissue Typing* and the principles of the HART Act 2004.

**Issues discussed included:**

* The committee noted that a clear medical need for the procedure exists. The child at the centre of this application has a serious condition and requires three to five blood transfusions per month. A sibling who is a disease free HLA match will potentially increase the existing child’s life quality and expectancy.
* A letter of support from a Paediatric Haematologist confirms that a haematopoietic stem cell transplant from an unaffected HLA matched sibling is the accepted standard of care where possible.
* The committee noted that they are required to assess the application in line with the guidelines and felt that Guideline 2C was not met. The committee noted that both counselling and genetic counselling have been completed but would like to see further genetic counselling provided to the intending parents around the process of HLA matching and the likelihood of achieving a disease free HLA matched pregnancy.
* When assessing section 2H of the guidelines that are concerned with medical and social issues for the child, the committee discussed whether it is likely that bone marrow will still be required even in the event of an HLA matched sibling. For example, would it be the case that cord blood is used initially and a bone marrow harvest may be needed later. The committee would like to see further information about this, and that this information has been provided to the intending parents and that they have received counselling with respect to this matter.

**Decision**

The Committee agreed to **defer** this application subject to further information about the chances of an HLA matched sibling being provided to the intending parents, and information being provided to and counselling undertaken by the intending parents regarding the likelihood and process of bone marrow transplantation.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/85 for Embryo donation for reproductive purposes**

Mike Legge opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Embryo Donation for Reproductive Purposes* and the principles of the HART Act 2004.

**Issues discussed included:**

* The recipient woman in this application has a medical condition affecting her fertility and there is a clear reason for embryo donation to assist the recipient parents in starting a family. The committee noted a letter from an obstetric physician supports the recipient woman in carrying a pregnancy with a donated embryo but advises specialist care during any pregnancy given her history.
* The donor couple have completed their family and now wish to donate their three remaining embryos created from their own fertility treatment. The application notes that the donor couple want to donate to another couple of the same ethnicity. The parties involved are a clinic match and are not known to each other.
* The donor couple have children and the application notes that they plan to be open with them about the intended donation. Both parties have declared intentions to be open with any child/ren born of this arrangement. Both parties have declared intentions to continue contact should the intended donation be successful and a child born of this arrangement.
* The committee discussed the importance of openness and information sharing and also strongly recommend counselling be undertaken with the donor couple’s eldest child.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/86 for Surrogacy involving an Assisted Reproductive Procedure**

Mary Birdsall opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Surrogacy involving an Assisted Reproductive Procedure* and the principles of the HART Act 2004.

* The intending parents in this application have a child and they require a surrogate to help them complete their family. There is a clear medical need for a surrogacy arrangement.
* The intending parents have three embryos remaining however only one of these is able to be transferred as two are mosaic. Both couples have received independent counselling from a genetic counsellor in relation to use of mosaic and euploid embryos.
* The application notes that the intending parents are willing to have further treatment to create more embryos if the transfer is not successful.
* A close friend of the intending parents has offered to act as a surrogate. The birth mother is healthy and well and has children of her own with a partner who is supportive of the intended arrangement.
* They have also had individual and joint counselling in relation to the difficult topic of termination of pregnancy and reached agreement that they would consider information at hand at the time and the health of the birth mother is paramount. All parties understand that the decision is legally the birth mothers to make.
* The intending parents have sought a preliminary assessment from Oranga Tamariki.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E20/87 for Embryo donation for reproductive purposes**

Michele Stanton opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Embryo Donation for Reproductive Purposes* and the principles of the HART Act 2004

* The recipient couple have a long history of infertility and a clear medical reason for embryo donation exists to give the recipient couple the best chance of a pregnancy.
* The parties involved are a clinic match and are not known to each other.
* The donor couple have ten embryos in storage to donate. The couple have one child who was conceived using their own embryos and born of a surrogate mother. The donor couple now consider their family is complete. They have not included their child in counselling but have declared intentions to be open and transparent should an ongoing pregnancy be established for the recipient couple.
* The donor couple’s son has a neurobehavioural disorder which as been disclosed to the recipient couple. The recipient couple have viewed a letter from the child’s paediatrician who has indicated that there is a 5-20% chance of recurrence within families. The recipient couple are thankful for the disclosure and have expressed that they don’t hold concerns and do not feel the need to seek further information above and beyond what the recipient couple have given them. The recipient couple have declared they would be willing to accept any child born of this arrangement.
* Implications counselling has included discussion around openness and ongoing contact and the intention is for both to happen. The donor couple expressed that their child asks about having a sibling and will no doubt be curious to meet any child born of this arrangement. The counsellor observed that the donor couple will confidently be able to manage this.
* The committee suggest counselling for the donor couple’s child.
* Both couples have sought independent legal advice and are aware of the legal issues and their rights in relation to embryo donation.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

1. **Application E17/95 for Embryo Donation for reproductive purposes**

Iris Reuvecamp opened the discussion for this application. The committee considered this application in relation to the *Guidelines for Embryo Donation for Reproductive Purposes* and the principles of the HART Act 2004.

* The original application was approved in November 2017 for three years to November 2020. The donor couple have two children and feel that their family is complete. They have two embryos to donate to the recipient couple.
* There is a clear medical need for embryo donation to give the recipient couple the best chance of a pregnancy.
* Letters from the fertility clinic updating ECART note that the applicants will also submit an extended storage application for the remaining embryo as storage is approaching 10 years.

**Decision**

The Committee agreed to **approve** this application.

**Actions**

Secretariat to draft a letter from the Chair to the clinic informing the medical director of the committee’s decision.

**Correspondence**

* ECART discussed a query from a treatment provider where the applicants have one child using donor sperm and wish to use the same donor again to have a biological sibling for their existing child. However, they failed to apply for extension of storage of the donor’s sperm. Sperm from the same donor has been allocated to another applicant, who did apply for an extension for storage which was approved. The committee suggested that the fertility provider seek consent for use by the applicants who already have one child using the donor sperm from both the sperm donor and the applicants who applied for and are paying for the continued storage of the donated sperm.
* ECART discussed a query from a treatment provider where an individual who has her own frozen eggs stored in an overseas clinic is getting close to the storage limit period of ten years. The clinic sought confirmation from ECART that ECART would consider approving an extension for her eggs as the COIVD-19 situation means that her eggs cannot be transferred to a New Zealand clinic before the statutory storage period expires. ECART confirmed that it would be able to do so.

**Meeting close**

Confirmation of 3 September 2020 meeting likely via zoom.

Confirmation of ECART member in attendance at next ACART meeting on 13 August 2020 in Wellington likely via zoom, Mary Birdsall.