

Minutes of the Ninety-eighth Meeting of the Ethics Committee on Assisted Reproductive Technology

8 December 2022

Held at Rydges, Wellington Airport on 8 December 2022

In Attendance

Iris Reuvecamp	Chairperson
Jeanne Snelling	Member
Mike Legge	Member
Angela Ballantyne	Member
Analosa Veukiso-Ulugia	Member
Emily Liu	Member
Lana Stockman	Member
Simon McDowell	Member
Mania Maniapoto-Ngaia	Member
Jude Charlton	Member
Annabel Ahuriri-Driscoll	Member

Calum Barrett	ACART member in attendance
Shannon Hanrahan	ACART member in attendance (9am-12pm)

ECART Secretariat

Apologies

Richard Ngatai

1. Welcome

The Chair opened the meeting and welcomed all in attendance.

2. Conflicts of Interest

No updates to the register and no declared conflicts of interest in relation to applications considered at this meeting.

3. Confirmation of minutes from previous meetings

The minutes from the 17 October meeting were confirmed

4. Application E22/184 for embryo donation for reproductive purposes

Analosa Veukiso-Ulugia opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation*,

embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy, and the principles of the HART Act 2004.

Issues discussed included:

- In this application for embryo donation the donor couple would like to donate their remaining embryos created from their gametes for their own fertility treatment to the recipient couple who have experienced a number of years of subfertility and unsuccessful fertility treatment using their own gametes. The donor couple have completed their family. They have set no restrictions on the use of their remaining embryos by the recipient couple and implications counselling describes their wish to freely donate and no evidence of coercion. The couples met via an online fertility forum and have established a relationship since meeting. They live in different countries, so communication has been online, and the parties describe shared values and beliefs, and they have declared intentions to continue to be open with one another and their existing and potential children through and ongoing relationship.
- The Committee noted that there was a lack of information about the extent to which the couple couldn't use the recipient partner's sperm.
- There was no explicit justification for why embryo donation is the best or only opportunity for the recipient couple to start their family. In considering some of the aspects set out in ACART's advice to ECART on how to consider the 'best or only' provision in the guidelines, it was agreed that the intended donation appears to be the best opportunity for the recipients to start their family given the time and financial cost involved should ECART require the recipient couple to use the recipient partner's sperm and seek an egg donor.
- The medical report for the recipient parents states that they have had the risks of treatment with donated embryos discussed with them and apart from the risks associated with carrying a pregnancy at advanced maternal age there are no other concerns for the recipient woman.
- The Committee recognises the connection both parties share in cultural backgrounds.

Decision

The Committee decided 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.

5. Application E22/185 for surrogacy involving an assisted reproductive procedure

Simon McDowell opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy, and the principles of the HART Act 2004.*

Issues discussed included:

- The intending parents in this surrogacy application have had two previous applications approved by ECART. One of the surrogacy arrangements was

successful and they have a child. They wish to complete their family and a different surrogate has offered to carry a pregnancy for the couple to help them complete their family.

- The surrogate has acted as a surrogate before for another family and is familiar with the process.
- The medical reservations for the intending mother not to become pregnant are clear and the indications for surrogacy are sound. The intending mother's long-term prognosis for her condition is excellent and there are no concerns that she would not be able to care for a child born of this arrangement.
- The embryos available for transfer to the surrogate have been created from the intending parents' gametes. If this treatment is successful, the child would be a biological child of both parents and a full sibling of their existing child.
- The surrogate in this application is a single woman who has no plans to have children of her own. The details of her previous surrogacy delivery were noted as being reasonable in the context of a surrogacy pregnancy. The risks to her in carrying a further surrogacy pregnancy and how to mitigate them have been set out in her medical report. The committee did not have any concerns that there would be undue risk to her or to the potential child.
- Counselling sessions have given consideration to adverse pregnancy outcomes and impact on her physical and mental health, and the surrogate's support networks and available support to her while she is pregnant.

Decision

The Committee decided to **approve** this application on the condition to the surrogate agreeing, when pregnant, to referral for obstetric review.

Actions

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

6. Application E22/186 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 family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- ECART previously declined this application on the basis of concerns about the health of the surrogate. In its decision letter ECART noted that it had an obligation to take into account that the health and wellbeing of the intending parents, the potential child and the surrogate are adequately safeguarded. ECART considered that the proposed surrogate's challenges were multi-faceted and there were a number of barriers to overcome before the risks to her in acting as a surrogate from those multi-faceted challenges could be mitigated. ECART considered the risks associated with undertaking a surrogate pregnancy could not be justified in the circumstances.
- The same applicants have submitted a new application for ECART's consideration. They have sought a further obstetric report and they have been

to further counselling. The additional information that has been provided in the context of this application covers two particular aspects. The first is additional counselling: there is clear awareness about the detail of ECART's concerns in relation to the surrogate's obstetric and mental health history and all parties appear to be fully informed.

- The additional information about the surrogate's physical health is limited to a letter from a specialist to her GP that states there has been a review of her health and that there are no new concerns further to previous reviews from other specialists. The additional specialist agrees with the other specialists that none of the surrogate's complications are direct contraindications to surrogacy and any increased risk she carries as a result of pregnancy are manageable through antenatal care and specialist oversight.
- ECART considered whether the additional information set out above would change its previous decision. It discussed the tension around the fully informed wishes of the parties involved and ECART's responsibility to consider the interests of all parties noting that ECART is charged with balancing all interests and stepping in where it thinks that those interests are compromised.
- ECART's primary concern remains in terms of the risks previously outlined by the surrogate's obstetrician and the additional context provided in the psychiatric report in relation to the surrogate's physical risks. Her chronic pain and the impact of a pregnancy on how she experiences that pain was also of concern, noting that the surrogate has already gone through a reasonable amount to try and address some of those issues, and that pregnancy might result in some of the gains made being lost.
- ECART took into consideration that clearly, all parties wished to proceed. The physician's report and additional counselling reports submitted with this application shows that the parties are fully informed about the risks.
- What the harms might be, apart from denying a sense of agency to the surrogate, if ECART were to decline the application alongside the interests of the intending parents and any potential child were considered. The worst-case scenario for the potential child, as ECART understands it, is that they need to be delivered very prematurely but it was agreed that this risk appeared to be able to be managed.
- ECART noted that the surrogate is fully informed, has capacity to consent and is prepared to take the risk, even though pregnancy might exacerbate other chronic conditions the surrogate has, and she might be left in chronic pain which she has taken years to try and address.
- The impact on the surrogate's children in the event the surrogate suffers any adverse long-term effects as a result of the surrogacy pregnancy was discussed, and it was agreed that the surrogate's children ought to be provided with an opportunity to attend counselling sessions.

Decision

ECART notes that the applicants have sought the services of a new provider. They have had extensive further counselling and time to reflect and have provided additional information from medical specialists.

The Committee still has concerns about the impact of the potential pregnancy on the surrogate's overall health and wellbeing, but the risks appear to have been carefully considered in the context of further counselling sessions.

ECART understands that the risks to any potential child can be effectively managed.

The Committee therefore agreed to **approve** this application subject to the surrogate agreeing when pregnant to referral to obstetric care.

ECART also notes the ages of the existing children and recommends that the surrogate's children ought to be provided with the opportunity to attend counselling sessions.

Actions

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

7. Application E22/187 for surrogacy involving an assisted reproductive procedure

Jeanne Snelling opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- The intending mother was born without a uterus and therefore requires a surrogate to carry a pregnancy.
- The intending parents intend to create embryos using their own gametes through IVF following the outcome of this application.
- The birth mother has two children and considers her family complete. There were no complications in either of these pregnancies. The birth mother was diagnosed with depression and post-traumatic stress disorder due to situational factors and had mental health support during this time. Both conditions have stabilised and the birth mother is in a supportive relationship with the birth partner. The birth mother did not experience any mental health issues during the antenatal or postnatal periods.
- The birth parents and intending parents met online and realised that the intending partner and birth mother knew each other through connected social groups in the past. Both parties intend to continue the friendship between the families and will be open and transparent with the child from birth regarding their conception story.
- Pregnancy and birthing plans, including the difficult topic of termination of pregnancy, were discussed and agreed in the context of implications counselling sessions. Both parties agree that they would be willing to continue with a pregnancy if a foetal abnormality was discovered depending on the severity of the impact to the future child and recognised that the decision to terminate legally lies with the birth mother.
- Both parties received independent legal advice and attained approval for adoption in principle from Oranga Tamariki.

Decision

The Committee decided 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.

8. Application E22/188 for surrogacy involving an assisted reproductive procedure with egg donation

Angela Ballantyne opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- The intending mother was born with mullerian agenesis and is therefore unable to carry a pregnancy. A previous application for surrogacy was approved by ECART, however, after multiple rounds of unsuccessful treatment with the intending mother's own eggs, the couple now need an egg donor.
- The birth mother is the same surrogate as in the previous application. The birth mother has children of her own and experienced uncomplicated pregnancies. She has made lifestyle changes due to her commitment to the surrogacy process and has been medically advised of the risks of surrogacy at an advanced maternal age. The birth parents have informed their children of the arrangement and say they are supportive. The birth mother intends to use her previous midwife but is open to obstetric care if necessary.
- There is a within family aspect to this application as the egg donor is the cousin of the intending mother. She has been informed of the risks of egg collection and is aware that she can withdraw her consent up until fertilisation. The egg donor knows the intending mother very well as they grew up together and remain in regular contact. The egg donor has spoken with her children about the planned donation, and they are all supportive of this.
- The intending mother has no children, and the intending father has children from a previous relationship. The intending parents share custody of the intending father's younger child with his previous partner. The children have been informed of the possibility of surrogacy and the parents are aware that counselling is available for the children if they believe it would be beneficial.
- The intending parents and egg donor have not disclosed their donation plans with their wider family but have declared they plan to do so if treatment goes ahead. They anticipate that this plan will be met with support from their family.
- The intending parents anticipate continuing their current level of communication with the egg donor and for her to be known as an aunt to any resulting child/ren. The intending parents also intend to maintain their relationship with the birth parents. All parties declare they recognise the benefits of early disclosure with children and plan on being open with the child about their conception story.
- Both the intending parents and birth parties have sought independent legal advice and the intending parents have received preliminary approval from Oranga Tamariki.

Decision

The Committee decided to **approve** this application on the condition that the surrogate agrees, when pregnant to referral for obstetric review.

Actions

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

9. Application E22/189 for creation of embryos from donated eggs and donated sperm

Jude Charlton opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- The recipient is a single woman who requires donor sperm to conceive. She has very low egg reserves and has been through many rounds of unsuccessful IVF treatment. She now also requires donor eggs to become pregnant.
- The egg donor and recipient woman are good friends who met through work and have maintained a relationship despite no longer working together. The egg donor has always known that the recipient woman wanted to have a family and decided to offer to donate after looking into egg donation. The donor has shared her plans to donate with her family and friends and they have all been supportive of this.
- The egg donor is single with no children and does not plan to begin a family soon. She has been medically counselled on the risks of egg donation and is aware that the eggs would be used with donor sperm to create an embryo.
- Extended genetic carrier screening was undertaken which showed that the egg donor has a single carrier condition that could affect the child and the recipient woman has been informed of this. The sperm donor is having carrier screening; if he was a carrier of the same condition then the resultant child would have a 1 in 4 chance of being born with the condition.
- The sperm donor is a clinic donor who has children of his own. The donor is aware that his sperm will be used in conjunction with the donated eggs to create embryos for use in fertility treatment by the recipient woman.
- The recipient is aware of the risks of being pregnant at an advanced reproductive age and medical specialists strongly recommend specialist obstetric care. Other than this, the recipient has an uncomplicated medical history.
- As the egg donor is a friend of the recipient, she thinks she will come into contact with the resultant child at various social occasions. She has no expectations for any future contact with the child but is happy to be available if this is desired by the recipient or if the child wanted to meet in the future.
- The sperm donor has kept in contact with the recipient woman since she started IVF treatment and has no concerns about the prospect of using the help of an egg donor to conceive.
- The sperm donor understands the genetic link any child would have to his children and intends to tell his children of his donation once it is confirmed. He

is open to meeting the child in the future and responding to any requests for information.

- The egg and sperm donors are aware that they can withdraw their consent to donate to the recipient woman until fertilisation takes place and that after this point their consent will not be required to use or extended storage of the embryos. They are also aware that their consent would be needed for the on-donation of surplus embryos in the future. The donors are also aware that they have no legal rights or responsibilities to any child conceived and that only the recipient woman's name would be on the birth certificate.

Decision

The Committee agreed to **approve** this application subject to the condition that the sperm donor completes Invitae carrier screening, and that the outcome is that he is not a carrier. If the sperm donor is a carrier, then ECART's expectation is that the applicants would receive genetic counselling and further information would need to be submitted to ECART for its further consideration. Any such approval is also subject to the condition that the recipient woman agrees, when pregnant, to be referred for obstetric care.

Actions

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

10. Application E22/190 for surrogacy involving an assisted reproductive procedure

Emily Liu opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for research on gametes and non-viable embryos* and the principles of the HART Act 2004.

Issues discussed included:

- The intending parents are a male couple and therefore require an egg donor and surrogate to start a family.
- The birth mother has her own children, and her pregnancies were carried to full-term and considered uncomplicated. The birth mother experienced low mood and anxiety following the birth of her first child due to difficult situational factors. She has since been in a supportive environment and did not experience any issues subsequently. The intending parents are aware of this history. The birth partner does not have children but plays the role of stepfather to the birth mother's children and is supportive of her decision to be a surrogate.
- The egg donor is a close friend of the intending parents and does not yet have children but would like to have them in the future. She believes this would not change her relationship with the intending parents and any resultant children and the egg donor's children would know about their biological link to any resultant child. The donor is aware of the risks of undergoing IVF treatment. The egg donor has a history of depression and post-traumatic stress and a significant family history of depression. The egg donor is a carrier for two conditions. The intending parents are aware of this and her family history.
- Both intending parents will provide sperm to create embryos. They would ideally like to have two children, with each of them genetically fathering a child and the

egg donor is aware of this. One of the intending parents is also a carrier of one of the conditions the egg donor is a carrier of. The couple have had genetic counselling and embryos created from this intending parent will have pre-implantation genetic testing. Otherwise, the intending parents have no notable medical conditions.

- The intending parents intend for their child to know their conception story from an early age and envisage that the egg donor will act as an aunt to a resultant child. The egg donor and her partner intend to continue travelling and will remain in contact with the intending parents virtually, acknowledging that it is important to have face to face contact when the child is older.
- The egg donor is aware that she can withdraw her consent until fertilisation occurs and that on-donation of embryos would require both her and the intending parent's consent.
- The intending parents and birth parents have discussed and agreed a pregnancy and birth plan and the birth mother is aware that any decisions about the pregnancy are legally hers to make. They have also agreed on the sharing of information about the intended surrogacy as it progresses. The birth mother is confident that the intending parents will be respectful of her privacy and hold her health and wellbeing as being of primary importance.
- All parties have sought independent legal advice and have received approval for an adoption order in principle from Oranga Tamariki.
- The Committee was satisfied that the genetic risks have been well-managed with genetic counselling and that the birth mother is in a supportive relationship with her partner and has a good therapeutic relationship with her GP to manage risks.

Decision

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

Actions

Secretariat to draft a letter from the Chair to the researchers informing the Co-ordinating Investigator and HDEC of the committee's decision.

11. Application E22/191 for surrogacy involving an assisted reproductive procedure

Jeanne Snelling opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- The intending mother's medical and fertility treatment history. She has experienced recurrent implantation failures after multiple cycles of IVF treatment, including with donor egg treatment. Surrogacy with egg donation is now the recommended pathway to offer the intending parents the best chance to begin their family.
- The birth mother has children of her own and experienced uncomplicated pregnancies and labours. The birth partner has children from a previous

relationship, and they share custody of their children with their previous partners. The birth mother is aware of the risks of pregnancy at an advanced maternal age and specialist care has been recommended.

- The birth mother's mental health history was discussed. She has engaged with mental health services when needed and describes good coping strategies and is in a supportive relationship with her partner.
- The birth parents have been open with their children about the proposed surrogacy and plan to share with wider family and friends when they begin treatment.
- The egg donor is a clinic donor who has no notable medical history. The egg donor has informed her children of her plan to donate, and they are supportive. The intending parents had a joint counselling session with the egg donor a couple of years ago and have been in contact updating her on their fertility journey.
- The egg donor understands that she has the right to withdraw her consent until fertilisation occurs and that the embryos are the responsibility of the intending parents. She is aware that on-donation of embryos would involve her consent and an ECART application.
- The intending parents have no notable medical history aside from the intending mother's gynaecological history. They did not report any significant mental health history and emphasised their pragmatic coping style and problem-solving skills.
- The intending mother met the birth partner a couple of years ago and developed a friendship. The birth mother offered to act as a surrogate after hearing the intending parent's fertility struggles through the birth partner and had wanted to be a surrogate before this offer was made. The intending parents envisage that the birth parents will remain important people in their lives and that of a resultant child. All parties acknowledge the importance of openness around the resulting child's conception story.
- The egg donor is happy to make herself available to any resulting child in the future should they want this. The intending parents intend to maintain an appropriate level of contact with the egg donor.
- The intending parents and birth parents have discussed potential termination of pregnancy and agree that they will place the birth mother's health and wellbeing at the forefront of decision making. They acknowledge that the birth mother ultimately has the legal right to make decisions around termination.
- Each party has received independent legal advice and has been advised on their rights in relation to adoption. Oranga Tamariki has approved in principle an adoption order for this application.

Decision

The Committee agreed to **approve** this application that the surrogate agrees, when pregnant, to referral for obstetric review.

Actions

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

12. Application E22/192 for donation of sperm between certain family members

Mania Maniapoto-Ngaia opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- The recipient couple are a female couple and therefore require sperm donation.
- The sperm donor is related to the recipient couple through marriage to one of the recipient women's siblings. The donor does not have any notable medical history aside from mild anxiety. He is a carrier for a rare autosomal recessive condition and the recipient couple have been informed of this and advised to have Invitae screening. Given the low risk of the recipient woman being a carrier and the genetic counselling they received, the recipient couple has decided to opt out of carrier screening.
- The recipient woman has no notable medical history, and the medical specialist raised no concerns about the recipient woman carrying a pregnancy. The recipient partner also has no notable medical history aside from coeliac disease, which is well controlled.
- There is no evidence of coercion or pressure involved in this application. The sperm donor understands that he will not have a say over decisions about use, storage or disposal of embryos after fertilisation and is aware that the recipient couple are hoping for two children with one genetic child each. He is also aware that his consent would be required for the on-donation of embryos.
- The recipient and donor couples have a close relationship with one another. The parties have been open with their wider whānau, who are supportive of the donation. The recipient couple have said that they will share the sperm donor's role in the child's conception early on and the couples envisage that the relationship between the donor couple's children and recipient couple's children would be one of cousins. The recipient couple plan on supporting their future children to understand their ancestry and donation story and the sperm donor would also be happy to talk about his role with a resultant child in the future.

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.

13. Application E22/193 for embryo donation for surrogacy involving an assisted reproductive procedure

Emily Liu opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- This is the second application for surrogacy from the intending parents and surrogate parents. The first, which was for surrogacy using embryos created from both intending parents' gametes, was approved. Unfortunately, the treatment was unsuccessful and, this is an updated application to reflect that donor eggs are now needed.
- IM has had cancer and following treatment cannot carry a pregnancy. She has an excellent prognosis. However, she has premature menopause as a result of her cancer treatment and requires an egg donor.
- Embryos with the donor eggs have been created and there is no additional risk to the egg donor beyond the risks of egg collection. The egg donor has a family history of a congenital condition for which there is a spectrum of abnormalities ranging from mild (no treatment required), to severe. The risk of the condition affecting any potential child is stated as being 1-4%. The intending parents are aware of the small increased chance of occurrence of the condition in the potential child.
- As part of carrier screening, it has been identified that the egg donor is a carrier for a condition where the risk of a child being affected without carrier screening for the intending father is 1:1220. The intending parents have been offered the chance to screen but have not done so to date.
- The pregnancy and birthing history for the surrogate and the important considerations for her in carrying a surrogate pregnancy were discussed. She had postnatal depression after her second pregnancy which was well-managed, and plans are in place for postnatal review and monitoring for the intended surrogacy. The surrogate is the same surrogate as in the earlier approved application and there are no new medical or surgical issues of concern for her. Medical opinion is that non-success of the previous two embryo transfers was due to egg and embryo rather than uterine failure.
- The relationships between the parties appear to protect the wellbeing of all involved including the existing and potential children. The intending parents met their surrogate through mutual friends a few years ago and they have developed their relationship over the years, and the egg donor is a longstanding friend of the intending mother who also knows the surrogate parents. The egg donor has also successfully donated as a clinic donor to another family in the past.
- The implications counselling in the previous application has canvassed the issues well and updates have been provided with this application.
- The intending and surrogate parents have received independent legal advice in relation to the requirements of the HART Act. The intending parents intend to adopt any child born of this arrangement and, in the unlikely event they cannot care for the child, have appointed family members as testamentary guardians.

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.

14. Application E22/194 for creation of embryos from donated sperm and donated eggs

Lana Stockman opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- The recipient woman is single and has had previous fertility treatment using her own eggs and donated sperm without success. She now has low ovarian reserve and medical opinion is that there is a less than 1% chance of a live birth using her own eggs. Accordingly, she requires both donated eggs and donated sperm to help her start her family.
- There are important medical considerations for the recipient woman should she carry the pregnancy. She has had the risks explained to her in the context of her medical assessments and the recommendation is that she receive specialist care in the event a pregnancy is established with these donor embryos.
- The sperm donor in this application is a known donor and the same person who donated to the recipient woman in previous treatments using her own eggs. He is a friend and has specifically donated to her. His donation is currently stored at the clinic. He has consented to the use of his sperm with donated eggs.
- The egg donor is a clinic egg donor who is not known to the recipient woman. Before donating she was advised of risks in relation to the egg collection process and the medical protocols in place to mitigate them. The egg donor has had carrier testing. She is the carrier for two genetic conditions, and both have been disclosed to the recipient woman.
- The sperm donor's medical history and his family medical history have also been disclosed to the recipient woman. He had carrier screening before he donated but further in-depth screening for the specific conditions the egg donor is carrier for has not been done. The sperm donor is currently overseas and this impacts his ability to complete further genetic testing.
- The recipient woman has been advised that in relation to the first condition that the egg donor is carrier for that there is a 0.14 percent chance and for the second condition that there is a 0.42 percent chance of the child being affected if the donor is not screened. The overall risks appear to be low. She has been advised of the risks and she is happy to proceed without screening for the sperm donor.
- All parties have received counselling. The egg donor understands that the embryos created with her eggs and the sperm donor's sperm is specifically for this intended arrangement only and will not be donated to other families. With regard to on donation, she is aware this would require both her and the sperm donor's consent if on donation was ever to be an option. Both the egg donor and the sperm donor have been advised of their rights in relation to their respective donations during counselling sessions. The recipient woman has also been advised of their rights prior to the embryos being created and of her right to make decisions about the embryos once they are created and any on donation consent requirements.

- Disclosure of the donation to existing (in the case of the egg donor) and potential children (for all parties) has also been discussed during counselling sessions. The egg donor plans on communicating her decision with her own children at an age-appropriate time. In relation to future communication with the recipient woman in this application, the egg donor has indicated that she would prefer future communication to be facilitated by the clinic. The recipient woman has indicated that future contact would be child led and facilitated by the clinic. The sperm donor sees benefit to the child knowing who he is, and he would be happy to have some contact in future. He is not seeking to be a parent or have parental responsibilities. The sperm donor has not disclosed his donation to his family, but would likely do so if a child was born. He expects his parents to want to have some contact with the child, and the recipient woman is aware of a possible request. Counselling would be available to the sperm donor's parent if needed.
- The recipient woman has a supportive network of people around her who can support her to raise any child born of this intended arrangement. In the unlikely event that she cannot care for the child she has appointed a family member as testamentary guardianship to a family member.

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.

15. Application E22/195 for non-binding ethical advice on a traditional surrogacy arrangement

Angela Ballantyne opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- In this application for a traditional surrogacy, the surrogate and egg donor is the sister of one of the intending parents. The intending parents are a male couple.
- The surrogate and her partner are in a longstanding relationship and have completed their own family. The couple describe a close and positive relationship with the intending parents.
- Carrier status has been tested for the intending parent who will donate, and the surrogate, and no conditions have been identified that may present a risk to the potential child.
- The surrogate had a third-degree tear in one of her previous pregnancies, but clinical opinion is that this will not pose a major risk to the surrogate in a future pregnancy.
- The surrogate partner had initially experienced some concern regarding how the intended arrangement might impact their family given they have young children, but his concerns have been addressed well during both individual and joint counselling sessions and this open and honest discussion between all

parties has resulted in an appropriate plan for care and support of the birth mother and her family during the surrogacy. Pregnancy and birthing plans have been discussed and agreed as part of this process; the birth mother plans to use her previous midwife, give birth in hospital and is open to obstetric care if necessary. The parties describe ongoing contact and openness within the context of their familial relationships.

- The couples intend to be open with any resulting child regarding the surrogacy process.

Decision

The Committee notes that this is a traditional surrogacy arrangement but did not have any concerns and would **approve** if it were a surrogacy arrangement involving an assisted reproductive procedure.

Actions

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

16. Application E22/196 for surrogacy involving an assisted reproductive procedure with egg donation

Simon McDowell opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- In this application for surrogacy a same sex couple require a surrogate and egg donor to help them start their family. The embryos have been created from both partners' gametes and from the egg donation for transfer to the surrogate.
- The intending parents are well and have no medical issues of note.
- The egg donor has had some treatment for depression and is otherwise well. She has some carrier conditions but there are no shared carrier conditions with the intending parents.
- The surrogate has had uncomplicated past pregnancies and deliveries. She has had treatment for depression and currently has support and awareness around her condition and when she needs to seek help. A report from her psychologist notes no particular concerns around her acting as a surrogate.
- Pregnancy and birthing plans have been considered and agreed in the context of counselling sessions, and any adverse pregnancy outcomes have been discussed and how they might be managed.
- The egg donor is a friend of the intending parents, and they have all received implications counselling around the current and future implications of the intended arrangement.
- Legal advice for the intending parents is outstanding and the application is therefore incomplete.

Decision

The Committee agreed to **approve** this application subject to confirmation and receipt of legal advice for the intending parents.

Actions

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

17. Application E22/138 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 family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*, and the principles of the HART Act 2004.

Issues discussed included:

- In its original consideration of this application ECART deferred its decision with a request for further information to help it consider whether the intended arrangement is the best or only opportunity for the intending parents to have a child. ECART requested a report from the intending mother's spinal specialist as well as further information from the intending mother. If the report suggested that that pregnancy was an option, the reasons why the intending parents wished to explore surrogacy nonetheless, was requested. ECART also requested further information about the medication prescribed for the surrogate's mental health and if the intending parents are aware that the surrogate takes medication. The third element was for full disclosure of the birth partner's historical criminal record to the intending parents given that such a relationship requires high trust and transparency.
- ECART has received confirmation that there has been further counselling and full disclosure of the birth partner's historical conviction and discussion about the medication the surrogate takes for her mental health.
- A number of additional documents have been submitted relating to the basis on which surrogacy is the best or only option for the intending parents to have a child, including from the intending mother herself, her spinal specialist and an exercise physiologist. The additional information confirms that she could carry a pregnancy, but it would have significant impact on her and her rehabilitation and it is reasonable for the intending mother to say that the risks involved are risks she is not willing to take. On the basis of this information ECART was satisfied that this is the best opportunity for the intending parents to have a 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.

18. Consideration of extended storage applications

Meeting close

Confirmation of next meeting on Friday, 24 February 2023.

Confirmation of ECART member in attendance at next ACART meeting on Thursday, 15 December 2023, Analosa Veukiso-Ulugia.