**Minutes of the One-hundredth Meeting of the Ethics Committee on Assisted Reproductive Technology**

**3 April 2023**

Held via zoom on 3 April 2023

**In Attendance**

Jeanne Snelling Chairperson

Richard Ngatai Member

Angela Ballantyne Member

Analosa Veukiso-Ulugia Member

Jude Charlton Member

Annabel Ahuriri-Driscoll Member

Emily Liu Member

Lana Stockman Member

Simon McDowell Member

Mania Maniapoto-Ngaia Member

Karaitiana Taiuru ACART member in attendance

ECART Secretariat

**Apologies**

Mike Legge

1. **Welcome**

The Chair opened the meeting and welcomed all in attendance.

1. **Conflicts of Interest**

No updates to the register and one declared conflict of interest in relation to application E22/047 for surrogacy for Dr Simon McDowell who was the fertility specialist for the birth parents. The Committee agreed that he would not take part in the decision making for that application.

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

The minutes from the 24 February meeting were confirmed.

1. **Application E23/040 for surrogacy involving an assisted reproductive procedure**

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:**

* This is the intending parents’ second application to ECART for surrogacy. Their first was approved and was a successful arrangement and they now have one child and wish to have a sibling for them. A child born of this intended arrangement would be a full biological sibling of their existing child.
* The Committee agreed that the intended arrangement offers the ‘best or only’ opportunity for the intending parents to complete their family. There is a clear medical reason for a surrogate and previous obstetric review supports the intending mother not carrying a pregnancy given 10-20% mortality rate risk. Her condition is currently considered stable, and this is supported by her specialist.
* The birth mother in this application is a new surrogate for the intending parents. The birth mother’s initial offer to act as a surrogate was made after she found out via a social media forum that the intending parents needed a surrogate. They share similar social situations and friends through those situations.
* The medical report for the birth mother notes her pregnancy and birthing history and the important considerations for her in acting as a surrogate. She has received medical advice about the risks of carrying a surrogacy pregnancy and in this knowledge wishes to continue with the intended arrangement if it is approved.
* Implications counselling has covered pregnancy and birthing plans. The parties know that that the birth mother is the legal mother until an adoption of the baby takes place and, that as the legal mother she has the right to make decisions about the pregnancy. The difficult topic of termination of pregnancy has been discussed and the parties hold similar views on when they would choose to do this.
* The birth parents have completed their own family and they plan to relinquish the baby to the intending parents. They have been open with their own children about the intended arrangement.
* The intending parents have received approval of an adoption order in principle from Oranga Tamariki and they have also appointed testamentary guardians in the unlikely event they are unable to care for the child.
* The potential social, cultural and genetic implications have been considered and safeguard the wellbeing of all parties including the potential child.
* Both parties have sought independent legal advice and the requirements of the HART Act have been discussed with them. Their decision-making rights have also been discussed during those sessions as has dispute resolution and the legal adoption process.
* While the birth parents have received legal advice, it is not clear that they have been given legal advice about the importance of updating their wills, inheritance rights, or testamentary guardianship. ECART agreed to give more thought about how it might approach this issue more generally, including writing to ACART.

**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.

1. **Application E23/041 for creation of embryos from donated eggs and donated sperm**

Richard Ngatai 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 a single person who has had unsuccessful fertility treatment using her own eggs in the past. This is her second application for the creation of embryos with donated eggs and donated sperm, this time with a new egg donor, as her previous treatment following ECART approval, was unsuccessful. Her new egg donor is her cousin.
* The medical report for the egg donor sets out the advice she has received in relation to the risks to her associated with egg collection and how they can be mitigated. The egg donor has disclosed a family history of a medical condition and the recipient woman is aware of this history. The sperm donor has also disclosed a family history of a condition where there is no risk of inheritance by the potential child.
* The recipient woman has been advised of the risks of carrying a pregnancy at an advanced maternal age. There are no other medical factors or risks to either the recipient woman or potential child that have been brought to ECART’s attention in her medical report. Given that she is of advanced maternal age, ECART agreed that it would support that she be referred for obstetric review should the treatment be successful, and a pregnancy established.
* Implications counselling for the egg donor couple describes discussion around the social and genetic implications of the intended donation and how the relationships will safeguard the wellbeing of all parties including the potential child. They have declared intentions to be open with their potential children in future and the egg donor would like to be known socially as an aunty to the recipient woman’s child/ren.
* Until there is a successful outcome, the parties won’t tell their immediate or extended family about the intended donation.
* The egg donor has offered to donate her gametes only to the recipient woman. She has had her rights to decisions about use of her gametes explained to her and use of embryos and storage of gametes and embryos. She knows she will have no parental rights for any resulting child. The egg donor has also consented to on donation of the embryos should the recipient woman want to help another family.
* As a clinic donor, the sperm donor has had implications counselling at time of the original donation, and he consented to being contacted by children born of his donation. His donation has been successful in treatment in three families, and he knows that if a baby is born to the recipient woman this will be the fourth family of a five-family limit. He is described by counsellors as staying actively involved in the donor programme and taking his donor role seriously and that this is a safeguard for all parties involved and the potential child.
* The recipient woman has declared she intends to create a culture of openness and honesty where a child can ask questions. Counsellors who have worked with her over the years have every expectation she will keep contact with the donors with the best interests of her child at the fore.
* The family connection between the recipient woman and the egg donor, donor legislation, and an attitude and commitment to ‘openness’ by the recipient woman and other parties is believed to safeguard all interests including those of the potential child.

**Decision**

The Committee decided to **approve**this application supporting referral for obstetric review for the recipient woman.

**Actions**

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

1. **Application E23/042 for surrogacy involving an assisted reproductive procedure with egg donation**

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 parents (IPA and IPB) in this application are a two-dad family who are planning surrogacy with egg donation to create their family. The intended arrangement offers them the best opportunity to have their own genetically related children, and in this application, they are planning on using IPA’s gametes to create embryos for transfer to their surrogate. There is no medical history of note for IPA that would impact on the well-being of the potential child.
* The medical report for the birth mother notes her pregnancy and birthing history and the important considerations for her in acting as a surrogate. She has been advised on lifestyle changes to help mitigate any risks to her and the potential child. She has been counselled on the general risks related to a surrogacy pregnancy and how they can be mitigated. Counselling reports have also described discussion around previous loss of one of her own pregnancies and she is of the view that she would feel differently if that were to happen in the context of this surrogacy arrangement and there would be less personal grief.
* The egg donor has also received medical counselling on the risks of egg donation and how they can be mitigated.
* Counselling reports describe how the intending parents and the birth mother have built a relationship after first meeting via a surrogacy forum. The birth mother had considered acting as a surrogate for some years before offering her services via a surrogacy forum. The intending parents believe the birth mother is genuinely motivated for altruistic reasons to help others. They have discussed ancestry links with the birth mother and through that discussion found that one of the intending parents has links to the same area the birth mother is from.
* The counselling report for the birth mother describes how she has had a chance to consider her offer from a cultural perspective and she describes her offer as a reconciliation of an expression of her values regarding whānau and manaakitanga. The birth couple will explain the arrangement to their own child in an age-appropriate way and they have shared with some of their immediate family their intentions.
* IPB has talked about his cultural identity and how he felt a deficit growing up and would want things to be different for his children.
* The intending parents had initially hoped to receive donated eggs from a family member, but this did not come to fruition. They met their egg donor via a fertility forum, and they have agreed to a reciprocity arrangement with their egg donor using IPBs gametes, to assist each other to have their families. IPB also intends to donate to one other family and the counselling report for the egg donor couple notes that they are aware of this. They have declared their intention to foster open knowledge of this across the three families and to maintain ongoing relationships.
* Counselling reports set out discussion and agreement around pregnancy and birth plans and advice given to the parties and their rights and responsibilities in relation to both. The birth mother and her partner live offshore but will have treatment here and the intending parents will travel to visit the birth mother during the pregnancy and before the birth of their baby. The intending parents intend to adopt the child and they have been counselled on the legal issues associated with adoption. Oranga Tamariki have approved an adoption order in principle.
* The intending parents have appointed testamentary guardians in the event that they are unable to care for the child. They have discussed residency in relation to the welfare of the child given that that birth parents live offshore. The birth mother has New Zealand citizenship, and the baby will be born as a New Zealand citizen and adopted by the intending parents when they return to New Zealand.
* Both the intending parents and birth parents have received independent legal advice and have been counselled on the requirements of the HART Act as well as the adoption process and there are no legal barriers that would prevent the planned adoption from going ahead. The legal advice for the birth parents has included discussion around inheritance rights of the child and the possible impact on a child born of a surrogacy arrangement and, the birth parents have been advised to update their wills to reflect that and appoint the intending parents as testamentary guardians.

**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.

1. **Application E23/043 for within family egg donation**

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:**

* The recipient couple have been through multiple rounds of IVF treatment and each of the embryos created harboured chromosomal abnormalities. Due to the recipient woman’s age, the recipient couple have been advised that egg donation will give them the best chance for an ongoing pregnancy.
* The recipient woman has no notable medical history and has been informed of the risks of carrying a pregnancy at an advanced maternal age.
* The egg donor and recipient woman have a close relationship. The egg donor saw the recipient couple’s fertility journey and was motivated to help them. Seeing the close relationship between the recipient partner and his child encouraged her to make the donation. There is no evidence of coercion involved in this application.
* The risks of egg collection have been explained to the egg donor. The donor has been informed that she will not have a say over decisions about use, storage, or disposal of embryos after fertilisation. She is also aware that her consent would be required for the on-donation of embryos.
* The recipient couple and egg donor intend to be open with the potential child about their conception story and envisage that the egg donor would have a cousin relationship with the potential child.
* The recipient couple and egg donor have informed their families and they are generally supportive. A couple of family members initially had some reservations but have since said that they support the arrangement.
* The recipient partner has a child from a previous relationship. The recipient couple share custody of the recipient partner’s child with his previous partner.
* The recipient couple have not yet informed the recipient partner’s child about the intended arrangement. They have declared that they would intend to tell their child once a pregnancy is established. The Committee discussed this noting the importance of allowing the existing child to have the opportunity to engage in the process and share their opinions, especially given that they are in their teenage years and will likely have a view. The Committee agreed that it would encourage the recipient couple to discuss this sooner rather than later with the child and consider counselling for the child.

**Decision**

The Committee decided to **approve** this application with the recommendation that it would encourage the recipient couple to discuss the intended arrangement with, and consider counselling for, the recipient partner’s child before beginning treatment. The Committee also recommends that the recipient woman agree to obstetric care and counselling.

**Actions**

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

1. **Application E23/044 for within family egg donation**

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:**

* The recipient couple have been through multiple unsuccessful embryo transfers and miscarriages. Due to the recipient woman’s age, they now require an egg donor. The recipient woman has been informed of the risks of carrying a pregnancy at an advanced maternal age.
* The egg donor is a step-cousin of the recipient partner through a previous marriage. The egg donor has remained in occasional contact with the recipient partner since then and this contact has become more frequent in preparation for the donation. They envision that this contact may decrease over time but that they will continue to see each other at family gatherings.
* The egg donor learned of the recipient couple’s need for a donor from one of the recipient partner’s family members, who informed the wider family. After some consideration, the egg donor offered to donate to the recipient couple. There is no evidence of coercion in this application.
* The egg donor is a carrier for several genetic conditions and the recipient partner is also a carrier for one of these. The recipient couple have received genetic counselling for this. PGT-M has been recommended and the recipients have been informed of the risks related to PGT-M.
* The egg donor has been informed of the risks of egg collection. It was also explained that she will not have a say over what happens to the embryos after fertilisation, but that her consent would be required for any on-donation of embryos.
* Both parties have only told a few close family and friends about the planned donation. The egg donor intends to tell her children around the time of egg collection. The Committee discussed the importance of early disclosure with the egg donor’s children as any potential child would be a half-sibling to them.
* The recipient couple plan to tell a potential child about the egg donor’s role in their conception story. The egg donor supports this openness and is happy to help the child to understand their social and genetic connections.

**Decision**

The Committee decided to **approve**this application with the recommendation that the egg donor discusses the intended arrangement with her children and that the recipient woman agrees, when pregnant, to referral for obstetric care.

**Actions**

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

1. **Application E23/045 for surrogacy involving an assisted reproductive procedure**

Annabel Ahuriri-Driscoll 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 has a chronic condition and has been advised that carrying a pregnancy would pose a significant risk to her and a baby. Therefore, surrogacy is the best option for the intending parents to begin their family.
* The birth parents have children and intend to have another child in the future but would like to pursue surrogacy for the intending parents first. The birth mother’s first delivery had a slight complication and the baby required one week in hospital following the birth. Aside from this, she has experienced uncomplicated pregnancies and births. The birth mother has been informed of the risks of carrying a surrogate pregnancy.
* The birth mother has no notable medical history except for situational depression as a young person. Since then, she has not experienced any mental health issues.
* The intending mother and birth mother met as young people at a faith group and share a close connection through their shared beliefs.
* The birth parents have set a limit on the number of embryo transfers they would have and do not believe that lack of success will damage their relationship with the intending parents.
* The birth parents have been open with their eldest child about the arrangement and will discuss this with their younger children when they are older.
* The intending parents have informed their family, who are supportive of the arrangement. Counselling has been offered to their extended family although this has not been taken up yet.
* The birth parents would like to have a home birth, while the intending parents would support a hospital birth. The Committee noted that they would support a hospital birth given the complications during the birth mother’s first birth and given surrogate pregnancies pose a higher risk.
* The birth parents would be reluctant to terminate a pregnancy if there were risks to the birth mother’s health or significant impact to the potential child such as a severe foetal abnormality due to their faith. The intending parents are aware of this and support this position.
* Both parties intend to be open with the potential child about their origins. They envision that the birth parents would have an aunty and uncle role in the potential child’s life with their children growing up as cousins.
* The intending parents have nominated testamentary guardians. Both parties have sought independent legal advice and the intending parents have received approval for an adoption order in principle from Oranga Tamariki.

**Decision**

The Committee agreed to **approve** this application subject to the birth mother agreeing to a planned hospital birth.

**Actions**

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

1. **Application E23/046 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 parents are a male couple who need an egg donor and a surrogate to start their family.
* The egg donor is the cousin of one of the intending parents and there are no signs of coercion surrounding this donation. The sperm will be provided by the other intending parent. A child born of this intended arrangement will have a biological link to both parents.
* The birth mother and egg donor both have long standing relationships with the intending parents.
* The birth mother has two young children and has been interested in surrogacy for a long time. Now that her family is complete, she reached out to the intending parents to offer surrogacy.
* The egg donor is in a long-term relationship and has two children who have been offered counselling.
* The birth plan has been covered in detail, with plans in place to use a midwife and have a hospital birth.
* The intending parents plan to travel to the town of the birth parents around the time of the birth and remain there for at least one week after the birth. All parties are focused on any resulting baby being with the intending parents early on and are also keen for the birth parents’ children to meet the child.
* The birth mother has experienced post-natal depression in the past; however, this is considered to be contextual. She is now considered to be mentally and physically well. A recommended plan is in place for the birth mother to attend monthly check-ins throughout the pregnancy and for three months post-partum.
* The egg donor carries three autosomal recessive conditions. The intending parent who will be providing sperm will undertake carrier testing for these.
* This application includes provisional approval from Oranga Tamariki.
* A plan is in place to appoint family members of the intending parents as testamentary guardians for any resulting child.

**Decision**

The Committee agreed to approve this application and supports intended parent (1) undertaking reproductive carrier screening in light of the ED’s carrier test results

**Actions**

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

1. **Application E23/047 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:**

* The intending parents have experienced multiple miscarriages which has led them to consider surrogacy. They have had a long fertility journey involving a number of embryo transfers. They have two children through previous surrogacy arrangements.
* The intending father has experienced health issues, the prognosis is looking favourable however this is not certain. The intending father is currently well.
* The birth parents have children of their own and consider their family to be complete. They have discussed their plans for surrogacy with their children and plan to remain open with them.
* The birth mother has had straightforward pregnancies and deliveries. She is fit, healthy, and aware of the increased risk associated with surrogate pregnancies.
* The birth parents have identified a strong support network. Their main concern through any resulting pregnancy would be potential loss of income should the birth mother be unable to work. They are exploring options for income protection insurance.
* The birth mother has agreed to be referred to hospital care and is planning to have a hospital delivery.
* The birth mother and intending mother have known each other for a number of years. They had their children at a similar time and have supported each other through this period. Given their existing friendship, the parties envision contact remaining regular and ongoing.
* The counselling report details the difficult journey the intending parents experienced throughout their previous surrogacy arrangements. Knowing of this difficulty, the birth mother offered to act as a surrogate. This is something the birth mother had been considering for some time.
* The intending parents have arranged testamentary guardianship for their current children, which would apply to any further children.
* The intending parents are familiar with the adoption process and have engaged with an Oranga Tamariki social worker. They have provided a provisional adoption order.
* Cultural issues were raised in the counselling sessions as the birth mother is of a different ethnicity to the intending parents and all other parties are New Zealand European. The birth mother has been open with her family about her plans to be a surrogate and they have been supportive of this. The birth mother has not indicated that there are any cultural practices around pregnancy or birth that she would wish to follow.
* Counselling has explored life insurance, finances, termination, relinquishment, and other important factors, which all parties share similar views on.

**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 E23/048 for embryo donation for reproductive purposes**

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 donor couple have remaining embryos which they would like to donate to the recipient couple. The couple utilised an egg donation to create these embryos.
* The donor couple’s pregnancies went well, and they have children who have not been counselled regarding this intended embryo donation due to their young age.
* The recipient couple have used IVF in the past which has been successful; they have children but do not consider their family to be complete. They are currently experiencing failure to conceive which has led them to pursue this embryo donation.
* The egg donor is aware of this donation. She has regular contact with the embryo donors and their children and has not met the recipient couple.
* Both the donor and recipient couples are long term friends and attend the same church, but do not consider this to be a faith-based donation.
* All parties involved have been counselled appropriately.
* The donor and recipient couples believe their children would have a cousin-like relationship socially.
* The Committee discussed whether the intended donation would be considered the ‘best or only’ opportunity for the recipient couple to complete their family and, agreed that it would make approval conditional on receipt of further information that could satisfy the Committee that the intended donation is the ‘best or only’ opportunity. ECART noted that there may be other options for conceiving a child who would have a genetic link to one or both parents.

**Decision**

ECART agreed to **approve** this application, conditional on receipt of information that enables it to be satisfied that the intended embryo donation provides the best or only opportunity for them to have a child. ECART needs to be provided with adequate medical information as to whether there are any alternative options to the proposed procedure, and their relative risks and or benefits. This information is also important for ECART to be reassured that the applicants have been fully informed in their decision making.

To avoid delays for the recipient couple, ECART is prepared to make an out of cycle decision regarding this matter once the necessary information is received.

**Actions**

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

1. **Application E20/038 for embryo donation for reproductive purposes**

Jude Venning 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:**

* ECART previously approved this application in 2020. One child has been born from this donation agreement who was conceived during the first round of treatment. The recipient woman experienced a straightforward pregnancy.
* The fertility clinic has requested approval past the expiry date so that the recipients can do further treatment to try for another child.
* The donors report no change in social conditions. The recipient couple have since moved closer to family and the recipient woman has returned to work. Everyone remains in good health.
* The donor and recipient couples remain in contact.
* The donor couple will support the recipient couple with an application for storage extension if required.
* The donor couple have been open with their children about this donation arrangement.

**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. **Consideration of extended storage applications**

**Meeting close**

Confirmation of next meeting on Wednesday, 28 June 2023.

Confirmation of ECART member in attendance at next ACART meeting on Thursday, 27 April 2023. Dr Jeanne Snelling to attend.