

Minutes of the one hundred and eighth Meeting of the Ethics Committee on Assisted Reproductive Technology

24 October 2024

Held online on 24 October 2024

In Attendance

Jeanne Snelling	Chairperson
Analosa Veukiso-Ulugia	Member
Angela Ballantyne	Member
Annabel Ahuriri-Driscoll	Member
Emily Liu	Member
Lana Stockman	Member
Mike Legge	Member
Peter Le Cren	Member
Richard Ngatai	Member
Karaitiana Taiuru	ACART member in attendance

ECART Secretariat

Apologies

Simon McDowell
Mania Maniapoto-Ngaia
Jude Charlton

1. Welcome

The Chair opened the meeting and welcomed all in attendance.

2. Karakia

Lana Stockman led the Karakia.

3. Conflicts of Interest

No conflicts of interest were declared.

4. Confirmation of minutes from previous meetings

The minutes from the 16 August 2024 meeting were confirmed.

5. Application ARP 21013 for creation of embryos from donated eggs and donated sperm

Peter Le Cren 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 Committee noted the intending parents have a clinical history of unsuccessful fertility treatment and the creation of embryos from donated eggs and donated sperm is the best option available to them. The Committee was satisfied there are no other health concerns.
- The intending parents have strong support from family and friends and are committed to transparency with the child and sharing progress with the egg donor. The intending parents intend to have contact with the child's genetic half-siblings.
- The egg donor is a friend of the intending parents and supports their journey. They intend to be open with their own children about the donation. The egg donor has no health issues.
- The sperm donor is a clinic donor and is committed to transparency.
- The intending parents are aware of cultural issues surrounding the donation and look forward to sharing the egg donor's cultural heritage with any children.
- The Committee was satisfied all parties have a sound understanding of their rights and obligations.

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.

6. Application ARP 21014 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 intending parent is a single person who has been on the sperm donor waitlist for some time and has been through unsuccessful fertility treatment. They were advised the best option for them to start their family is to seek donated eggs and create an embryo. The intending parent has the support of family.
- The egg donor is related to the intending parent. The Committee was satisfied there was no evidence of undue influence on the egg donor to donate and their offer was made freely.
- The sperm donor is a clinic donor and is happy to share their heritage, though it was noted they do not place much emphasis on this.
- The Committee was satisfied there were no major health risks or medical concerns for the parties in this application.

- The Committee was satisfied all parties have a sound understanding of their rights and obligations.
- The Committee noted that any future child born would have Māori ancestry, but there was no discussion in the counselling reports regarding this, or how the intending parent might support the child to incorporate their Māori heritage into their upbringing. The Committee agreed to encourage the applicant to seek out information and guidance on how to support a child born with Māori ancestry as this will have implications for the child's identity.
- The Committee noted the maternal age of the sole intending parent and agreed to encourage them to consider the issue of testamentary guardianship and making a will 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.

7. Application ARP 21020 for creation of embryos from donated eggs and donated sperm

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 parent is a single person requiring a sperm donor to begin their family. The intending parent also requires an egg donor due to their age. The Committee noted that they were satisfied given the circumstances of the intending parent, that egg donation and sperm donation is the best and only option for getting pregnant.
- The sperm donor has donated before but there have been no children born in other families yet. The egg donor has been interested in donation and initiated contact with the clinic, and there is no evidence of coercion in her decision to donate.
- The application details the intending parent has had extensive counselling and opportunity to consider this path forward.
- The intending parent is of advanced maternal age which may present increased risk to carrying a pregnancy. The Committee discussed and concluded that it would encourage her to seek specialist obstetric care once a pregnancy is established.
- Given the intending parent's circumstances, the Committee agreed it would encourage the intending parent to seek legal advice about wills and testamentary guardianship once a pregnancy is established.

Decision

- The Committee agreed to **approve** this application with the recommendation that the intending parent is referred for obstetric care once a pregnancy is

established. The Committee would also encourage the intending parent considers appointing a testamentary guardian once 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.

8. Application ARP 21011 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 Committee was satisfied that the intended arrangement offers the intending parents the best chance to start their family given the couple's fertility journey and the intending-mother's medical complications.
- The intended surrogate is a sister of one of the intending parents. She has completed her own family and, her medical report notes that while there are some associated risks she is healthy and there are no contraindications to her acting as a surrogate.
- The applicants have received individual and joint counselling. The counselling reports are complete, noting no evidence of coercion, and familial support for the intended arrangement. The counselling reports canvas pregnancy and post birth plans and the adoption process. Both parties have also received independent legal advice.

Decision

The Committee agreed to **approve** this application with the recommendation that the surrogate is referred for obstetric-led care once a pregnancy is established.

Actions

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

9. Application 21017 for non-binding ethical advice on a clinic-assisted surrogacy arrangement involving an established procedure

Mike Legge 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 a history of unsuccessful IVF treatment and pregnancy loss. Surrogacy with egg donation is now considered the best option to begin their family.
- The intending parents and surrogate are friends. The surrogate initially donated eggs to the intending parents after learning about their fertility struggles and later offered to be their surrogate. The surrogate and surrogate partner have children and consider their family complete.
- Embryos will be created with the surrogate's eggs and the intending father's sperm. Carrier screening identified that the surrogate is a carrier of an autosomal recessive condition. However, as the intending father does not carry this gene there is no risk of a potential child being affected by this condition.
- The families live close to one another which will allow the intending parents to provide support to the surrogate parents during any pregnancy. The surrogate parents discussed the egg donation with their children and plan to inform them of the surrogacy arrangement after ECART approval has been granted.
- Both parties plan to be open with any resulting child about their conception story and the surrogate parents will have a social aunty and uncle role in any resulting child's life.
- The surrogate has been counselled about the risks of egg donation and has been informed that she can withdraw her consent to donate eggs up until embryos are created. The intending parents and surrogate parents have been informed that any decision to terminate a pregnancy would legally lie with the surrogate.
- Both parties received independent legal advice, including advice regarding wills and testamentary guardianship, and have received approval for an adoption order in principle from Oranga Tamariki.

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.

10. Application ARP 21010 for clinic-assisted surrogacy with egg donation

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:

- Intending parent one (IP1) will be the biological father of a child born of this arrangement. The egg donor and IP1 have tested positive as carriers for some

conditions. However, the conditions do not overlap and therefore the risk of the future child inheriting them is low.

- There were no events of concern noted in the surrogate's own pregnancy and birth history. However, obstetric care has been recommended to her for the intended surrogacy pregnancy. Implications counselling has included discussion and agreement about pregnancy, birth and post-birth plans. The intending parents have a support network that they can draw on including when they become parents.
- The rights of the parties in relation to consent around storage, use and on donation of the embryos has been set out and discussed in counselling sessions and there are no issues of concern.
- The parties have declared that they will share information with the existing children about the intended arrangement and the egg donor has already begun talking with her child.
- The intending parents have sought independent legal advice. They have declared that they would want the experience for the surrogate to be cost neutral and plan to cover life insurance for her, and to give practical help with childcare for her children and household support. They intend to adopt any child born of this arrangement and Oranga Tamariki has approved an adoption order in principle. They have made testamentary guardianship plans and have been advised of the need for wills.
- The legal report for the surrogate advised the surrogate that the intending parents could arrange life insurance for her but incorrectly stated that any subsequent insurance claim would result in the intending parents receiving a payout in the event of her death. The Committee agreed that it would request that this advice be corrected so that all parties are aware that any payment would go to the surrogate's family and not the intending parents' surrogate.

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.

11. Application ARP 21029 for clinic-assisted surrogacy 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 (IP1 and IP2) are a same sex male couple requiring egg donation and surrogacy to begin their family. The egg donor is IP1's sister and the surrogate is a friend of the intending parents.
- The surrogate and surrogate partner have children and consider their family complete. The surrogate had previous uncomplicated pregnancies and deliveries. She has been informed of the risks of carrying a surrogate

pregnancy at an advanced maternal age and obstetric care has been recommended.

- The egg donor and her partner have children and consider their family complete. Embryos have already been created with the egg donor's eggs and IP2's sperm. The egg donor has been informed that any decision to on-donate the embryos would require her consent.
- The intending parents have been open about the surrogacy with their friends and family and the surrogate has discussed the intended arrangement with her children. All parties intend to be transparent with any resulting child about their conception story.
- The intending parents agreed that the surrogate's health and wellbeing would be paramount to any decision regarding termination of a pregnancy and all parties have been informed that any decisions surrounding termination are legally the surrogates to make.
- The intending parents and surrogate parents have received independent legal advice, and the intending parents plan to appoint the egg donor and her partner as testamentary guardians for any resulting child. The intending parents have received approval for an adoption order in principle from Oranga Tamariki.

Decision

The Committee agreed to **approve** this application and supported the recommendation for specialist obstetric care for the surrogate given her preference for this and her advanced maternal age.

Actions

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

12. Application ARP 20914 for clinic-assisted surrogacy

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:

- Surrogacy has been recommended as the best opportunity for the intending parents to begin their family given their history of infertility and the risk to the intending mother of carrying a pregnancy. The surrogate is a friend of the intending parents who offered to be their surrogate after learning about their fertility struggles.
- The intending mother has a genetic condition and has been advised that the medical risk of carrying a pregnancy would be too high. The condition is currently well controlled with medication and the intending parents are otherwise in good health. The intending parents have created embryos to use in this surrogacy arrangement.
- The surrogate and surrogate partner have children and consider their family complete. The medical report for the surrogate outlined a couple of medical conditions including an antibody that can be associated with neonatal

complications. However, there were no complications in the surrogate's previous pregnancies and the risk to a resulting child is low. This information has been shared with the intending parents.

- The intending parents discussed the intending mother's genetic condition in counselling as well as in joint counselling with the surrogate parents and are aware that a resulting child may be born with this condition. The embryos cannot be tested prior to implantation and the intending parents do not wish to test for this gene in utero. As the intending mother lives with the condition, the intending parents are aware of the implications of having a child born with the condition and would love and care for a child regardless. The Committee discussed the decision not to test for the gene and agreed that this is the intending parent's decision to make.
- The intending parents and surrogate parents intend to be open with any resulting child about their conception story. The intending parents anticipate they will maintain a lifelong friendship with the surrogate parents and both families will have a role in one another's lives in the future.
- Both parties have been informed that any decisions regarding termination would legally lie with the surrogate and all agreed that the safety and wellbeing of the surrogate would be prioritised in any decision.
- Both parties have received independent legal advice, including wills and testamentary guardianship. The intending parents have received approval for an adoption order in principle from Oranga Tamariki.

Decision

The Committee agreed to **approve** this application with support for the surrogate being referred for obstetric-led care once a pregnancy is established.

Actions

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

13. Application ARP 21049 for clinic-assisted surrogacy with egg donation

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:

- In this application for surrogacy with egg donation, the intending parents are a male couple, who need a surrogate and an egg donor to help them start their family. One of the intending parents is a New Zealand citizen and the other is a foreign national and they are living overseas currently.
- The surrogate and her partner are Māori; they have children together and consider their family to be complete. Implications counselling discussion has centred around her being a wahine Māori surrogate to a non-Māori couple and she is comfortable with the decision she has made to act as a surrogate for the intending parents.

- The implications counselling reports for the parties set out their histories, including the way in which the intending parents met the egg donor and the surrogate and, the way in which they have built their existing relationships. There does not appear to be any undue influence, and the surrogate and donor have freely offered to help the intending parents.
- The intending parents have declared intentions to continue their relationships with the egg donor and the surrogate in future. They recognise the benefits to all parties of a continuing relationship and in particular for the existing and future children of the families in this intended arrangement.
- The intending parents have been open with family and friends about the intended arrangement and report that they are supportive. The surrogate couple live with family members and have their support close at hand. A shared understanding of the importance of safeguarding the health and well-being of the surrogate and of the potential child is described in the counselling reports.
- The Committee noted that in the information before it there seemed to be a reliance on support for the surrogate from her family as the intending parents are living offshore. The Committee agreed it would like to see further information that sets out how the intending parents intend to communicate with the surrogate and what social support for her looks like from a distance.
- Initially, the intention was for gametes from both intending parents to be used to create the embryos for transfer to the surrogate. However, it was then decided that embryos created for transfer to the surrogate will be created with IP1's and the egg donor's gametes (and depending on the number of eggs available create further embryos using IP2's gametes). The Committee noted that there does not appear to have been full disclosure and discussion of IP2's clinical information with the donor and the surrogate. In the interest of transparency, the Committee agreed on the need for the egg donor to be informed that the intending parents intend to fertilise the eggs with IP2 sperm and to share his clinical history with the donor, even if they do not intend to use the embryos at this point. This will give the egg donor the option of consenting to use of her eggs with one or both of the intending parents' gametes and to consider the implications in counselling sessions.
- The Committee noted that the legal report for the surrogate was light on the citizenship status and cross-border implications for a New Zealand born child given that the intending parents are living offshore and intend to continue to do so for the foreseeable future. The implications were set out and addressed in the legal advice for the intending parents. The Committee agreed it would want to seek reassurance that all applicants have been advised of all the necessary information and so will request this before making a final decision.

Decision

The Committee agreed to **defer** this application to request a more comprehensive legal report for the surrogate that addresses in greater detail the information that has been provided to her and her partner in general, and in terms of the cross-border nature of the surrogacy. Further, the Committee requests a support plan for the surrogate that sets out how the parties will communicate and how the health and wellbeing of the surrogate will be protected during the surrogacy.

The Committee agreed that as IP2's clinical history has not been disclosed to the egg donor, that any subsequent decision to approve this application would be conditional on use only of IP1's gametes to create embryos.

Actions

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

14. Application ARP 21051 for embryo donation for reproductive purposes

Peter LeCren 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 parent requires donor sperm and donor eggs to begin her family due to being a single person and having previous unsuccessful treatment using her own eggs. As she could not find a suitable egg donor, embryo donation now offers the best chance to have a child. The intending parent and donor couple have no previous relationship and were matched through the clinic embryo donation pool.
- The intending parent has a couple of chronic health conditions but overall is in good health. She has been informed of the risks associated with carrying a pregnancy at an advanced maternal age and obstetric care has been recommended to mitigate these risks.
- The donor couple have carefully thought through the options for their remaining embryo and the implications of embryo donation before making this decision. They feel that their family is complete and wish to help someone else have a family.
- The parties have met online, and all parties are open to maintaining some contact, but they have not yet shared contact details. The donor couple expressed that they would not wish to have significant contact given their fertility history and experience with pregnancy loss.
- The donor couple have shared their intentions to donate with their family. The intending parent had told a close friend about the donation and plans to tell her family once a pregnancy is established. She anticipates that her family will be able to provide support to her during and after a pregnancy. The Committee noted that the support arrangements for the intending parent during a pregnancy were not clear given she has yet to tell her family.
- The intending parent plans to be transparent with any resulting child about their genetic heritage and donor conception. She would like to build a relationship with the embryo donors to support any resulting child's understanding of their heritage.
- The Committee noted that because the intending parent is receiving an embryo donation and will be a single parent, it would encourage her to consider appointing testamentary guardians once a pregnancy is established.

Decision

The Committee agreed to **approve** this application and encourage the intending parent to consider appointing testamentary guardians once a pregnancy is established.

Actions

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

15. Application ARP 21152 for clinic-assisted surrogacy

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 intending parents have had fertility treatment using their own gametes without success. Medical opinion is that this assisted reproductive procedure would give them the best chance to start their family.
- There is a within family aspect to the intended arrangement as the sperm donor is a brother of the intending father; there would be a biological link for the intending father with any child born of this arrangement. The intending parents met their egg donor online and then discovered they shared a connection through their work.
- There is also a cross-cultural aspect to this application. The intending parents and sperm donor are Pacific Island New Zealanders and their egg donor is a New Zealand resident of European descent. They describe their counselling sessions as having been culturally appropriate for them. The intending parents have discussed during counselling sessions the possibility the potential child/ren might have different physical features from them and the implications. They have also explored different aspects of family formation in their culture during counselling sessions.
- All parties have been advised of and have discussed the HART Act requirements including information sharing, rights of the existing children and potential child and the use, storage and disposal of the gametes and embryos. The parties have declared intentions to be open with the potential child about their conception story and have also discussed and agreed on the way in which they will foster social relationships between the donors and the donors' own children.
- Genetic screening has been done for both donors and the sperm donor's results are yet to be provided. The egg donor is a carrier of a rare autosomal recessive condition and the chances of the future child/ren inheriting it are low even if the sperm donor is found to be a carrier. The clinic is waiting on the sperm donor's results before any embryos are created.

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.

16. E21/007 request to extend approval of an embryo donation

Angela Ballantyne opened the discussion for this request. 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 application was first approved in February 2021 with the usual condition imposed that ECART's approval was only valid for three years. The original approval expired in February this year.
- The recipient couple have had two children from the embryo donation arrangement and are seeking an extension to continue treatment to grow their family.
- Both parties have had updated counselling and medical review and provided reports for the committee.
- The recipient couple have maintained contact, and the donor couple have met the recipient couple's children.
- The donor couple are fully supportive of the recipient couples' application to continue treatment with the embryos.
- The Committee agree to vary the original conditional approval and to extend it for a further three years from the date of the second application.

Decision

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

17. Consideration of extended storage applications

18. Request for non-binding ethical advice for transfer of embryos with a known genetic condition.

Meeting close

Confirmation of next meeting on 5 December 2024.

Confirmation of ECART member in attendance at next ACART meeting on 11 December 2024, Annabel Ahuriri-Driscoll

Analosa Veukiso-Ulugia led the closing Karakia.