

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

28 June 2023

Held in person and via Zoom on 28 June 2023

In Attendance

Jeanne Snelling	Chairperson
Mike Legge	Member
Analosa Veukiso-Ulugia	Member
Emily Liu	Member
Angela Ballantyne	Member
Lana Stockman	Member
Mania Maniapoto-Ngaia	Member
Jude Charlton	Member
Richard Ngatai	Member
Simon McDowell	Member
Annabel Ahuriri-Driscoll	Member
Calum Barrett	ACART member in attendance
Michelle Scarf	Counsellor, Fertility Associates
Lorna Wilson (end of meeting)	

ECART Secretariat

1. Welcome

The Chair opened the meeting and welcomed all in attendance.

2. Karakia

Lana Stockman led the karakia.

The Chair continued their opening comments, updating the Committee on relevant applications and communicatins.

The Chair began by presenting updates for a previous ECART application for embryo donation where the Committee was not satisfied that it had received adequate medical information to be satisfied that the donation was the 'best or only' opportunity for the intending parents to have a child. The Committee had deferred the application to request that the fertility specialist involved provide further information on available options and the relative risks. The Committee had agreed that the Chair and one other member could approve the application once the response was considered. This has now been approved. The Chair noted that the new ECART forms may elicit fuller information provision in future applications.

The Chair then discussed recent correspondence received from a man who has sperm stored outside of New Zealand. This sperm has been lawfully stored overseas for more than 10 years. Because of the HART Act prohibition on storing gametes beyond 10 years (unless ECART approval has been gained) it is uncertain whether the gametes may be used for fertility treatment in NZ. ECART agreed that it will seek a legal opinion on this matter.

The Chair then raised a previous application to extend storage of sperm for which the committee requested the applicants receive medical and fertility counselling within six months. ECART's decision letter was recalled so that the Committee could reconsider the six-month timeframe. The Chair suggested that the applicants instead be granted a one-year temporary extension and reapply once they have received both medical counselling and fertility counselling. This counselling would provide the applicants an opportunity to discuss the welfare and clinical risks for any future children. All agreed to this change.

The Chair shared a recent request from someone who stored their gametes as a minor and now wishes to donate them. Although this person is now in their 20s, due to restrictions in section 12 of the HART Act, it is unclear if they are able to donate due to their age at the time the gametes were collected. The Committee noted that section 12 is ambiguous. Members discussed previous applications and correspondence from people encountering the same restrictions on their autonomy. One member stated that this issue is likely to become more frequent as more people are having gametes stored in their youth prior to commencing gender transitions. Given the ambiguity of the provision, ECART agreed to seek a legal opinion on this matter.

The Chair then raised a recent request from Fertility Associates to grant a temporary extension for a number of clients. This extension would grant Fertility Associates more time to contact clients to let them know their gametes or embryos are due to expire. Members noted that this is similar to a previous clinic application, and agreed to a 12-month temporary extension.

3. Conflicts of Interest

No updates to the register.

Conflicts of interest were declared in relation to the following applications considered at this meeting:

- Dr Emily Liu – E23/080, E23/027
- Dr Simon McDowell – E23/082, E23/084, E23/085

4. Confirmation of minutes from previous meetings

The minutes from the 3 April 2023 meeting were confirmed. A member queried why discussion of whakapapa was removed from the minutes. The Chair explained that this was due to an error in a previous ECART application which incorrectly stated that one party was Māori. This error was resolved between meetings.

5. Application E23/079 for donation of sperm between family members

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:

- Sperm donation is the only option for the intending parents to have a child. The intending parents value genetic connection which led them to ask the intending father's father to donate sperm. The intending father and sperm donor remain very close.
- The intending mother plans to have IVF treatment and has been counselled about the risks of this process.
- Given the sperm donor's advanced age there may be some increased risk to the child of developing certain conditions. The intending parents have been counselled about medical risks, and their medical report states that the risks remain low. The Committee noted that it would be helpful for the medical reports to have more information about the absolute risks of advanced age sperm donation.
- Fertility counselling reports reflect that all parties have been thoughtful about the implications of the intended donation and no issues have been raised.
- The intending parents have discussed the possibility of having surplus embryos with the sperm donor, they have not yet made decisions about what they would do with any surplus embryos.
- The sperm donor's partner is supportive of his decision to donate. The plan for sperm donation has not been discussed with the intending father's mother (sperm donor's ex-partner) and sister (sperm donor's daughter). The intending parents plan to tell them after ECART approval.
- The Committee discussed family relationships along with the intergenerational element of this application. The importance of openness about this intended donation was recognised, as a resulting child would also have a genetic relationship with the intending father's sister. The Committee noted that fertility counselling could assist with this.

Decision

The Committee decided to **approve** this application, noting that the intended donation has intergenerational implications for the future child. ECART would like to encourage the intending parents to reflect on what this might mean for a future child's developing sense of identity. ECART also noted that the intended donation has implications for the genetic relationship between the intending father's sister and future child and encourages the parties to speak to her, as indicated, as soon as possible.

ECART - encourages the parties to speak to the intending father's sister, as indicated, as soon as possible.

Actions

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

6. Application E23/080 for surrogacy involving an assisted reproductive procedure

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.

Dr Emily Liu declared a conflict of interest and did not take part in the decision making for this application.

Issues discussed included:

- The intending mother's medical specialist has advised against her carrying a pregnancy and surrogacy is both the best and only way for the intending parents to have a genetically related child.
- The Committee discussed the impact of the intending mother's health condition for a child resulting from this arrangement. While the condition experienced by the intending mother contraindicates pregnancy, she has a good prognosis.
- The surrogate in this application has a history of mild health concerns and a gestational condition she experienced in her previous pregnancies. Plans are in place to monitor her health throughout a surrogate pregnancy, along with obstetric care.
- The surrogate's own deliveries are described in her medical report as uncomplicated. She and her partner consider their family to be complete. Her partner was initially apprehensive about the proposed surrogacy, but now supports her decision.
- The intending parents and surrogate parents report a strong bond. The surrogate parents' children have met the intending parents, and all get along well. The intending parents plan to be open with any resultant child from this surrogacy arrangement. The surrogate parents have not yet discussed the arrangement with their own children and are aware that fertility counselling is available to them to do this.
- There is a clear birth plan in place with established roles for each party. The intending and surrogate parents have discussed the topic of termination of pregnancy in counselling and their views appear aligned.
- Reports indicate that the surrogate mother has a strong support network, with all supporting her health and wellbeing.
- Both the intending parents and surrogate parents have received independent legal advice. They have discussed some of the legal aspects of the intended arrangement together in joint counselling.
- The Oranga Tamariki report is outstanding for this application due to a delay with a police check.

Decision

The Committee decided to **approve** this application subject to receipt of a letter from Oranga Tamariki approving an adoption order in principle and noting its support for the surrogate to be referred to obstetric care.

Actions

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

7. Application E23/081 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 have experienced recurrent implantation failure. The intending mother was born with a nonhereditary condition, which reduces her chances of conceiving a pregnancy, and if she did, poses additional challenges for child birth.
- There is a familial aspect to the intended arrangement as the surrogate is the sister of one of the intending parents. The intending surrogate has children and considers her own family complete.
- The intending surrogate's children were delivered by caesarean section and caesarean section delivery is recommended for any future pregnancies.
- The intending surrogate has a medical condition which is currently in remission. She is happy to receive medical care throughout any subsequent pregnancy. Specialist reports provided with this application are in favour of the woman acting as a surrogate in this proposed surrogacy arrangement.
- The surrogate has expressed that she would be happy, if needed, to have a number of treatment cycles with all available embryos to achieve a pregnancy.
- Both the intending parents and surrogate parents have received counselling and there is a comprehensive birth plan in place. Fertility counselling highlighted the importance that the surrogate parents existing children are aware of the surrogacy process.
- The application included evidence of comprehensive independent legal for both parties.
- The Committee noted that the surrogate's medical reports discuss an elevated BMI for her. The Committee noted that good obstetric outcomes can still be expected, and the Committee does not impose BMI limits on applicants. Discussion of the surrogate's BMI has likely been included in this application to meet the criteria for public funding.

Decision

The Committee decided to **approve** this application. Although the medical reports note elevated BMI for the intending surrogate, ECART does not consider this a barrier to surrogacy.

Actions

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

8. Application E23/082 for embryo donation for reproductive purposes

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.

Dr Simon McDowell declared a conflict of interest and did not take part in the decision making for this application.

Issues discussed included:

- The donor couple are a male couple who have remaining embryos which they would like to donate to the recipient couple. The donor couple used eggs from one of the recipients in this application as part of a previous egg donation cycle.
- The recipient couple/intending parents are a female couple who need donated sperm to conceive. As embryos have already been created with one of the recipients eggs and one of the embryo donor's sperm, the recipient couple consider the intended embryo donation as the best option to begin their family.
- The recipient parent who will carry a pregnancy is on low-dose medications for an endocrine and a mental health condition, both of which are well-managed. They will continue with the medications during pregnancy, and neither are deemed a risk or barrier to pregnancy.
- The donor and recipient couples have been friends for a long time and have become closer through the previous egg donation and birth of the donor couple's child from this arrangement. They are currently living in the same city and envisage their close relationship to continue.
- The recipient couple understand that the donors have the right to withdraw consent prior to the transfer of each embryo. Re-donation of the embryos has not been considered as the donors understand that full biological siblings can only be in two families.
- Both parties intend to be open with the potential child about their origin story. They anticipate that the donor couple's existing child and any potential child from this arrangement would have a cousin relationship socially.
- The donor parent whose sperm was used has Indian heritage and is happy to help with information about culture and traditions with any potential child of the recipient couple.
- The donor couple have declined police vetting as they have a close relationship with the recipient couple. The Committee noted that despite the relationship between the parties, police vetting is a requirement of the ACART guidelines; therefore, ECART must be satisfied that the recipients have been vetted by the police even though they are using their own eggs.

Decision

The Committee decided to **approve** this application subject to receipt of confirmation of completion of police vetting for the recipient couple.

Actions

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

9. Application E23/083 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 an autoimmune disorder that has prevented her pregnancies progressing to term. Although a live birth is possible with this condition, there is potential to continue to have more pregnancy losses which would be physically and psychologically damaging. The intending mother also has low egg reserves and for these reasons surrogacy has now been recommended as the best option to have a child.
- The birth parents have children and consider their family complete. The birth mother sustained a fourth-degree tear during her first delivery and lost a significant amount of blood during her second delivery by caesarean. Given this history, it is recommended that she has an elective caesarean section and be referred to the obstetrics team for extra monitoring during pregnancy.
- The birth mother has been informed of the higher risks of a surrogacy pregnancy. The birth mother has placed a condition on when she would start treatment to ensure that there is at least the recommended gap between her caesareans.
- Both intending parents are in good health and agree to screening of the embryos given the intending mother's age.
- The birth mother is a good friend of the intending parents and offered to be a surrogate after seeing their social media post asking for a surrogate. Both parties live in the same city and the birth parents would welcome the intending parent's support during a pregnancy given that they don't have local family support.
- The intending mother has Māori heritage and wishes for the placenta/whenua to be buried after birth as she did in her previous pregnancies. The birth mother agreed to this, and different cultural practices were discussed in counselling.
- Neither party has involved their wider family in counselling yet but have been advised that counselling would be available to them.
- Both parties have been informed that the birth mother is the only person who can legally consent to terminate a pregnancy. They agree that the birth mother's life would be paramount to decisions about termination.
- The parties intend to be open with existing children and a potential child about the surrogacy arrangement and to maintain an ongoing close relationship with each other. The intending parents envisage that the birth parents would have an aunty and uncle relationship with the potential child.
- Both parties have received independent legal advice and the intending parents have received approval for an adoption order in principle from Oranga Tamariki. The Committee noted that there was no reference to testamentary guardianship or wills in either legal report. The Committee emphasised the importance of both parties organising wills and the intending parents nominating testamentary guardians in the event that they are themselves unable to care for a child born of this arrangement.

Decision

The Committee decided to **approve** this application subject to receipt of an assurance that both parties have received information regarding wills and testamentary guardianship prior to treatment starting.

The Committee also supports specialist referral for the surrogate and expects that her caesarean section will be performed by a senior medical specialist given her delivery history.

Actions

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

10. Application E23/084 for surrogacy involving an assisted reproductive procedure

Mike Legge opened the discussion for this application. The Committee considered this application in relation to the *Guidelines for 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.

Dr Simon McDowell declared a conflict of interest and did not take part in the decision making in relation to this application.

Issues discussed included:

- The intending parents have one child together. The intending mother underwent a hysterectomy after a tumour was discovered in her uterus during caesarean section and is now cancer-free. The intending parents require a surrogate to have another child.
- The surrogate parents have children and consider their family to be complete. The surrogate has been informed of the higher risks of a surrogate pregnancy. She has E-antibodies that can be associated with disease in a fetus. These remained low in her previous pregnancies and there was no impact on the fetus or need for intervention. She will receive hospital care and will have monthly measurements of antibody levels to monitor the health of the fetus. The intending parents have been fully counselled about the potential risks and are happy to proceed with the surrogacy arrangement.
- The surrogate is a relative of a close friend of the intending parents and offered to be their surrogate after hearing of their fertility difficulties, having conceived her own children through IVF. Since then, the parties have formed a good relationship and anticipate that they will continue to have regular contact during a pregnancy and after. The surrogate parents and intending parents live in different cities and the intending parents plan to visit regularly to be present throughout the pregnancy.
- The intending parents have shared the possibility of this surrogacy with their close family and friends and have been met with support. All existing children have been informed of the planned surrogacy, although they are too young to be involved in counselling.
- The intending parents and surrogate parents agreed that if a pregnancy posed a risk to the surrogate's health, they would consider a termination. The parties

have been informed that the decision to terminate ultimately lies with the surrogate.

- Both parties intend to be open with any potential child about their birth story. The surrogate parents plan for ongoing and open communication during the first year of the child's life and after this are happy to be guided by the intending parent's wishes about how much contact they have. The parties envisage a relationship to be one of close family friends.
- The parties have sought legal advice and the intending parents have gained approval for an adoption order in principle from Oranga Tamariki. Both parties have arranged wills and testamentary guardianship in the event they are not able to parent the children.

Decision

The Committee agreed to **approve** this application and support referral for obstetric care for the surrogate.

Actions

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

11. Application E23/085 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.

Dr Simon McDowell declared a conflict of interest and did not take part in the decision-making for this application.

Issues discussed included:

- The intending parents are a male couple. They intend to use IP1s sperm with donated eggs from a known donor to create embryos for transfer to a surrogate.
- The intending parents are New Zealanders who are currently living offshore, and the egg donor and surrogate live in New Zealand where the treatment will take place. The intending parents plan to return to New Zealand to live.
- The intending parents are both in good health. IP1 and the egg donor have had genetic testing and results of testing show no risk to the potential child of inheriting the conditions tested for.
- The egg donor has had the risks of egg collection set out to her in her medical assessment and the ways in which any risks can be mitigated. She carries some genetic conditions but none are shared carrier conditions with IP1.
- The intending parents' surrogate and her partner have children and consider their family to be complete. The important considerations for the surrogate in carrying and delivering a child have been set out in her medical report. Her first baby was growth restricted and the risk of this happening in her subsequent pregnancy was mitigated and her second baby was born without complication. She has a history of anxiety and depression since the time her second child was an infant, but her condition is well managed through medication and her

supportive primary health care team. A specialist report provided with the application reports that she is stable on medication and will remain on this medication including throughout a pregnancy.

- The surrogate is the sole income earner while her partner retrains, their family are currently living in restricted circumstances which is described as the biggest stressor in her life, but the hope is that their situation will have changed by the time they know whether treatment has been successful. The surrogate describes a supportive network of people around her, and has the ability to take time off work if she were to become unwell during the surrogacy. She has seen a specialist and discussed early warning signs and what measures she could take to care for herself. The specialist report notes that the surrogate is well informed and has a sound relationship with the intending parents and has insight into what she might need to practically and emotionally support herself through situations that might arise through the intended arrangement.
- The surrogate has given considerable thought to becoming a surrogate and her partner is supportive of her decision. Counselling sessions have canvassed treatment, pregnancy, and birth plans. Relinquishment of a child and the surrogate's rights to make decisions about the pregnancy was also discussed.
- The egg donor's relationship to the intending parents is through her family's close friendship with IP1 and she describes making her offer to donate after hearing about the difficulties the IPs were facing finding an egg donor. Counselling sessions have canvassed the egg donor's rights in relation to the intended donation including her rights to vary or withdraw her consent to use of her eggs up to the point embryos are created. The intended surrogacy arrangement between the intending parents and their surrogate has also been discussed. The egg donor knows that any decisions about the pregnancy and birth are the surrogates to make; she does not feel that she needs to know the surrogate and is trusting of the relationship the intending parents have with their surrogate. She is comfortable being known as a donor and has been made aware of the HART Act requirements for sharing of information and a child's right to access that information. She believes she will have regular contact with the intending parents and that her biological connection to the child will be known.
- The intending parents' counsellor's observation from the joint counselling sessions is that the egg donor and her partner have had the opportunity to explore the implications of her being an egg donor in the context of a surrogacy arrangement, and that she is making an informed decision to become an egg donor.
- The intending parents' counsellor described all parties as well informed about the implications associated with the intended surrogacy arrangement, including IVF treatment, managing a pregnancy, birth and making a substitute parenting order, and that the criteria in the ACART guidelines have been met.
- The intending parents' counsellor is satisfied that the surrogate parents' motivation to enter this surrogacy is to help the intending parents have a child of their own and, that the surrogate and her partner have considered the relevant issues and are well informed about the medical and psychological risks of carrying a pregnancy. On the topic of termination, the intending parents have stated they would only want this as a final resort if a condition that was incompatible with life was identified. The surrogate and her partner seem aligned in this view. What wasn't made clear in the joint counselling report was

the parties expectations in the event there is an issue with the surrogate's health.

- Both parties have received independent legal advice and the intending parents' report canvasses the topic of adoption, dispute resolution, wills, testamentary guardianship, and what effects the proposed surrogacy law reform could have if it is enacted while they are going through their adoption process. The surrogate parents' report canvasses the topics of adoption and restrictions on payment. The surrogate has been advised to make a will.
- The Committee noted that the issues for the surrogate and her mental health have been explored extensively throughout the application process and, was also reassured by the fact that the intending parents will soon be living locally to the surrogate parents.

Decision

The Committee agreed to **approve** this application **subject to the condition** that, before treatment begins, ECART receives an assurance that the parties have discussed their views regarding termination of pregnancy if the surrogate's health is at risk during the pregnancy, and that their views are aligned. ECART also supports the plan the surrogate has put in place to manage her well-being during the surrogacy.

The Committee agreed to consider a response in between meetings.

Actions

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

12. Application E23/086 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.

However, this application was withdrawn soon after the meeting.

13. Application E23/087 for embryo donation for reproductive purposes

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 intending parent is a healthy and well single person who has had unsuccessful attempts at IVF treatment with donor sperm and has had embryo transfers without success. Due to a combination of her age and diminished ovarian reserve, the decision has been made to apply for use of donated embryos in treatment and the intended use of the donated embryos offers her the best option to have a child.

- The embryo donor couple have completed their own family and have chosen to donate their remaining embryos to the intending parent after reading her clinic profile. After talking with her they felt she would make a wonderful parent. They are reassured by her description of the support she will have as a single parent. The reports from the parties' counselling sessions note this is a clinic donation whereby the two parties have connected through the clinic and shared profiles. They have each accepted one another's profiles and gone on to meet in person, both through clinic facilitation and outside of the clinic. They have made efforts to get to know one another and see the benefit of this, particularly how this connection may benefit future children.
- All parties have declared that they would be open to future contact and have declared that they would be open with any child born of this arrangement about their role in the child's conception. Children in both families will be told they are full genetic siblings. They know about the legislative framework in NZ around donation and are comfortable being known identifiable donors, known to intending parents and with information available to donor-conceived children.
- While the intending parent would like to have ongoing communication with the donors, she has noted that the important principles to her would be that she would have full parenting authority without the donors' input and that whatever degree of communication or contact is in the best interests of the child. She understands that once a child is born, she will be the legal parent of the child and prior to that that it is her legal right to make decisions about the pregnancy.
- The embryos have been created with donated eggs and the donor partner's sperm. There are no medical issues or genetic issues of note for the donor partner or egg donor. The egg donor is aware of the intended embryo on-donation and has consented to this.
- The medical report for the intending parent has no medical history of note that might put her or the potential child at risk during a pregnancy. The general risks of carrying a pregnancy given her older maternal age have been explained to her and obstetric care is recommended for her which she has consented to.
- The joint counselling report notes that the intending parent would be happy to have two embryo transfers at the same time and the Committee queried whether this would be best given her age.

Decision

The Committee agreed to **approve** this application on the condition that the intending mother receive a single embryo transfer based on best medical practice due to maternal and fetal risk of carrying a multiple pregnancy.

Actions

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

14. Application E19/46 for donation of sperm between family members

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:

- ECART has previously approved this application for within family gamete donation in 2019. The recipient couple had successful treatment and have a child. They have requested an extension to approval so that they can have further treatment to have another child and sibling for their existing child.
- The Committee noted that the donation is an intergenerational donation as the donor is the father of the recipient man and that ECART had noted paternal age of the donor as a risk in its original consideration of this case. In the intervening time since approval was first granted, the donor has had a change in circumstance having had a medical condition that has been successfully treated. However, the gametes that the recipient couple would like to use in future treatment were collected and stored before the donor experienced the medical condition. The medical notes included with this request state that the medical condition is not inheritable.
- Updated counselling reports for both parties included with this request noted no issues that would be of concern for the well-being of any of the parties, including the child born of this donation and potential children. The recipient couple have started talking to their infant about their biological origins and their families remain close and aware of the donation – the parties describe that the donation has not created any feelings of awkwardness within their wider family.
- The donor has other grandchildren who were not born from the donation. He sees himself very much in the social role of grandfather and he supports this request for the recipient couple to use the donation to complete their family and supports the child knowing their biological origin.
- The paternal age of the donor was considered a risk factor in the original application, but it appears that the implications have been thought through both medically and in counselling sessions and the risk has not been considered to meet a threshold that would mean the gametes can't be used. The recipient couple have a healthy child born of the donation.
- The recipient woman has an altruistic motivation to pay things forward which could mean that the couple would want to on-donate embryos they don't use in future. The Committee noted however, that any on-donation would come to ECART for consideration in a separate application.

Decision

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

Actions

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

15. Application E23/027 for surrogacy involving an assisted reproductive procedure with 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.

Dr Emily Liu declared a conflict of interest and did not take part in the decision-making for this application.

Issues discussed included:

- This application is a resubmission of an intended surrogacy arrangement involving an ARP and egg donation. ECART's decision in the original application was twofold as the intending parents had embryos created from their own gametes and also intended to create more embryos using donated eggs and the intending father's sperm.
- The egg donor had multiple family members with a condition for which some members had declined testing but had received a clinical diagnosis. ECART agreed to defer this part of the application to receive further information about the egg donor's medical history and for the intending parents to receive genetic counselling.
- The egg donor has since had a session with a specialist who has reported no evidence to suggest the egg donor has the condition. Her sibling also had an assessment, and the same result was reported. Both the egg donor and the intending parents understand that this assessment does not provide information on future risk. The intending parents have received genetic counselling, and they still wish to proceed with the intended donation. Supporting letters from the specialists have been provided for ECART.
- In the first application to ECART the reports indicated the egg donor and family would have genetic testing but now family members have declined to be tested which makes it hard for ECART to quantify the risk.
- The Committee noted the condition can have a wide spectrum of clinical presentations from severe to mild and a possible reason family members might not want to be tested may be because any symptoms they have are mild and they are not severely affected. The specialist report included with this response explains the condition and the range of symptoms associated with serious to mild expressions of the condition. The Committee noted that the egg donor is now in adulthood and has not experienced any symptoms and neither has her sibling.
- Based on the information before it, the Committee agreed that given it seems the egg donor and her family have no symptoms and all parties in this application are well informed of the risks then it would **approve** the application.

Decision

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

Actions

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

16. Consideration of extended storage applications

17. Request for ECART view on whether embryos can be donated without the prior consent of both gamete donors

A gamete donor submitted a letter asking ECART to consider whether they would be able to make an application to donate their embryos. The embryos were created with their ex-partner who has not given their consent to donate the embryos.

ECART is restricted by the law that requires consent from both gamete donors and cannot comment on their view of the law. The individual can seek their own legal advice independently of ECART.

Meeting close

Confirmation of next meeting on Thursday, 31 August 2023.

Confirmation of ECART member in attendance at next ACART meeting on Thursday, 29 June 2023.