

Second Round of Consultation on the Proposed Guidelines for Posthumous Reproduction:

This feedback is on behalf of Repromed Auckland.

Repromed is interested as a provider of fertility services.

Repromed is located at 105 Remuera Rd, Remuera, Auckland

Question 1:

Should ethical review by ECART be required for all posthumous uses of gametes or reproductive tissue, even if consent to specific use was given while the deceased person was alive?

No. We do not believe there is anything to be gained by ECART review if consent was given prior and the parties involved had been counselled.

An ECART application creates an additional cost to people and potential for unnecessary stress and uncertainty regarding a decision that was already made.

Question 2:

Should ethical review by ECART always be required for the posthumous use of stored embryos, even if consent to specific use was given while the deceased person was alive?

No, for the reasons as above.

Question 3:

Do you agree that ACART should recommend a change to the HART Order 2005 to ensure all posthumous use is considered by ECART?

No.

Question 4:

Do you agree that the guidelines should allow for the posthumous use of clinic donor sperm or eggs, if there is already a child from the person who donated those gametes and the new child will be in the same family?

Yes, if the donor gave consent to gametes being used after their death.

Question 5:

Do you agree that the deceased person must have consented to a specific use?

Yes. Specific use must be defined and documented in consent.

Question 6:

Do you agree with ACART, that the definition of specific use should mean “consent to use by a specific person/s”?

Yes in general, but not necessarily a named individual, such as a partner. Clinic donors could consent to specific use “by recipients” for instance.

The consent should show that the person knew for what purpose their gametes or embryos were going to be used. That is; they consented knowing a resultant child would grow up in a particular environment or with particular people.

Question 7:

Do you agree that the intending parent(s) must provide evidence of consent to posthumous use in order to use gametes, reproductive tissue or stored embryos from a deceased person?

Yes

Question 8:

Do you agree that oral consent is acceptable?

No. We believe that consent should always be in writing and clearly outline the information which was provided at the time consent was given and state what the use of the gametes/embryos would be.

Question 9;

Do you agree that there must be evidence of oral consent for that consent to be acceptable?

IF oral consent was considered to be acceptable, yes there would need to be evidence of that consent which included documentation of what was discussed at the time consent was given so it was consistent with written consent.

Question 10:

Do you agree that consent to posthumous use of gametes or reproductive tissue can be taken to imply consent to posthumous retrieval of the gametes or tissue?

No. Consent should illustrate the person was aware how the gametes or reproductive tissue would be collected.

It is, we believe, important to note that collecting sperm after a person's death is much easier than collecting ovarian tissue. Posthumous retrieval therefore may favour men's ability to reproduce after death.

Question 11.

Do you agree there is no need to test whether the deceased person had a full understanding of the method of retrieval of the gametes or tissue?

If, as above, the consent clearly shows that the person understood the method of retrieval a test would not be necessary.

Question 12.

Do you agree that ACART should recommend a change to the HART Order 2005 so that it is clear that posthumous retrieval is never an established procedure?

Yes

Question 13.

Do you agree that, subject to a change in the HART Order 2005, ECART could authorize posthumous retrieval?

As per our discussion in the consultation we wonder if it is necessary for ECART to be able to authorize posthumous retrieval as generally this would be very rare. A single pathway, of authorization through the High Court may be the clearest way.

Question 14.

Do you agree that the retrieval of gametes and reproductive tissue from deceased minors for reproduction should be prohibited?

Yes

Question 15.

Do you agree that if a minor freezes gametes or reproductive tissue and dies before they can use those gametes or reproductive tissue (or can consent as an adult to another use), then the gametes or reproductive tissue are not able to be used by anyone else?

Yes

Question 16

Do you agree that ACART should provide advice to the Minister to amend section 12 of the Hart Act 2004 to enable people to choose the use of their own gametes/tissue after they reach the age of 16?

Yes.

Please note that there is a discrepancy here. Currently an ECART application is required for any donor arrangement where the donor is aged under 20. This provides a check that donors are not being placed under pressure to donate. A similar check for the above scenario might be worthwhile to consider. Would ACART be satisfied if this was just done in counselling at the time the young person makes a decision about the use of their stored gametes/tissue? Perhaps include as a counselling requirement?

Question 17

Do you agree that there is no need for the guidelines to include a specific provision about a stand-down period?

Question 18

Do you agree that the counselling provision (7.f) about allowing time for grieving, is adequate for ensuring people make a well-considered decision?

Yes if it was required that an ECART application was required for every use, including when prior consent had been given.

However if not, a recommendation for a stand down period could be included in the guidelines. Clinics can manage this themselves on a case by case basis taking into consideration all factors, including for example the age of a recipient woman

Question 19

Do you agree with the proposed title for the guidelines of Guidelines for the Posthumous use of Gametes, Reproductive Tissue and Stored Embryos?

Yes