Feedback form

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Name	Name withheld 5
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Please provide a brief description of the organisation (if applicable)	
Address/email	
Interest in this topic (eg, user of fertility services, health professional, researcher, member of public)	Health Professional (Retired)

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Question 1: Rescinding the biological link policy

Refer to section 3.

ACART is proposing that:

- the guidelines should no longer require intending parents to have a genetic or gestational link to a resulting child
- instead the guidelines should require ECART to be satisfied that where intending parents will have neither a genetic nor a gestational link to a resulting child, the lack of such links is justified.

(a) Do you agree? Yes ☐ No ☐

(b) Do you believe there are cultural implications associated with the proposed removal of the biological link policy?

Yes ☐ No ☐

If so, please describe these implications

Unless there is a medical reason, I am of the firm belief the gestational link shoiuld be retained and are unconvinced there are justifiable reasons to remove this important biological and social link between mother and child. In addressing this question my reponse, however, is mainly directed at the process in which donor eggs and donor sperm from individuals with no genetic link to the intending parents are specifically procured and used to create the embryos for the surrogate pregnancy. I emphasize this arrangement differs from use of a donated frozen embryo in storage, a situation more analagous to the adoption of a child.

When IVF first became available as a service at National Women"s Hospital in Auckland in the early 1980's[1], only two people, the intended mother and father, both providing the biological link, produced the resulting pregnancy. Now, we are considering approving the involvement of five people with no biological links, two gamete donors, a surrogate woman and the commissioning parents. It is bizarre.

In any review of the policies governing suggogacy, the welfare of the child to be born and the surrogate mother are paramount and more important than the needs of the commisioning individual or couple. In the context of surrogacy, the biological link is important in minimizing the child's confusion in understanding their identity and their relationship with their parents or parent. "*Five people contributing to my existence, I am confused how this happened. What and who am I?"* It appears that the child resulting from the proposed process without any genetic link to his or her parents is the one seriously discriminated against here. Would you or I wish to be a child born under the proposed arrangements? I wouldn't.

While the biological link is important in later life, it also assumes special relevance for the welfare of the child if he or she is found in utero or at birth to be not as perfect as expected. A disabled child is more likely to be accepted by the intending parents if there is a genetic link. There is, for example, the Australian couple who rejected one of their twins from a surrogate pregnancy undertaken in Thailand because the child was disabled. Safeguards should be included in policy guidelines to ensure the welfare of the child under all circumstances.

Pregnancy is not without health risks to a woman and the developing child in her uterus. The policy on surrogacy should cover pregnancy management and support as well as legal considerations. I note it is addressed in Question 13.

[1] The development of a programme for in vitro fertilisation in New Zealand. Graham, F. M., Binkerd, P., France, J. T., and Clark, J. NZMJ, 98 (775), (1985)

Please give reasons for your views.

There are important cultural implications if the biological link is no longer required. In defining ourselves as New Zealanders an important component in identifying who we are personally is the knowledge of our genetic heritage, the family tree. The ready availability of resources in geneology to identify our ancesters and where they came from attests to this interest. Knowledge of our geneology within our family setting is relevant to us all irrespective of racial background. Accordingly, it is my firmly held view that the present biological link policy should be retained.

Question 2: Access to information held on birth certificates

Refer to section 3.

ACART is interested in hearing views about potential strategies to strengthen a donor offspring's access to information about their origins, which is held on their birth certificate.

Do you have suggestions? Yes ☐ No ☐

Please give reasons for your views.

Donor offspring should by right have access to information about their origins. The information should include details of the donation, the names or name of the donors and racial background if not already currently provided, and, if relevant, that the offspring was born from a surrogate pregnancy. The name of the surrogate should perhaps also be included. The availabilty of the information should be noted on the birth certificate as accessible at, I suggest, age 15 years or older, or earlier if agreed to by the parents.

Question 3: Format of the proposed guidelines

Refer to section 4.1.

ACART is proposing to issue one set of guidelines to ECART that encompass family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic-assisted surrogacy.

Do you agree with the format of the proposed guidelines? Yes ☐ No ☐

Please give reasons for your views.

I believe one set of guidelines would be too comprehensive for the inclusion of such a variety of ethical issues. It would be preferable to have separate guidelines for family gamete and embryo donations and a second set of guidelines for clinic assisted surrogacy with embryo donation from stored embryos and if there is a changed policy for donated eggs and donated sperm.

Question 4: Justification to use a procedure

Refer to section 4.2.

ACART is proposing that ECART should be satisfied the proposed procedure is the best or only opportunity for intending parents to have a child and the intending parents are not using the procedures for social or financial convenience or gain.

Do you agree? Yes ☐ No ☐

Please give reasons for your views.

Clearly if the intending parents are using the procedures for social or financial gain it is not in the best interes or welfare of the child and when surrogacy is involved the surrogate woman is also being exploited. It is therefore easy to answer yes to this question. I can't however easily see how you make a financial gain from having a child unless there is a family inheritance in the offering. Children are expensive to raise and educate. Social reasons would be more usual but I don't see how they might be easily identified by ECART at interview. I suggest a list of social reasons that would exclude access to the procedures should be included in the guidelines.

The following is an excerpt taken from the Submission I made to ACART's 2012 Cosultation and which is relevant to this Question: *I have particular concerns about the health and welfare of the child born by choice for a single parent, female or male. Extended family involvement and support would be critical to the safe upbringing of such a child. Financially, the parent should be able to fully support the raising of the child. I think it would be unethical and a rort of the welfare system for the parent to expect the State to provide funding support for the fertility services and ongoing upbringing of the resulting child. ECART should ensure these provisos are covered when giving approval*.

Question 5: Consent by gamete and embryo donors

Refer to section 4.3.

ACART is proposing that, where a procedure will involve the use of an embryo created from donated eggs and/or donated sperm, the gamete donor(s) must have given consent to the specific use of their gametes:

- at the time of donation; or
- when a procedure using such an embryo is contemplated.

In either case, the affected parties should receive counselling on the implications of using gametes before the gamete donor gives specific consent.

If consent is given, the gamete donor can vary or withdraw their consent only up until an embryo is created (in cases where consent is given before the embryo is created).

In addition, where a procedure will involve the use of a donated embryo, the person(s) for whom the embryo was created must give consent to the specific use of the donated embryo:

- at the time of donation; or
- when a procedure using such a donated embryo is contemplated.

Once an embryo is created, the decision to vary or withdraw consent up to the time the embryo is transferred to the womb should remain with the people for whom the embryos were created.

Do you agree? Yes ☐ No ☐

Please give reasons for your views.

I have already indicated my opposition to the use of donated eggs together with donated sperm for the specific purpose of creating an embryo for a surrogate pregnancy when there is no biological link to the commisioning parents. If this procedure gains approval it is my view that the relevant consent(s) be given when the procedure is contemplated and then re-confirmed at the time of donation.

Question 6: Taking account of potential coercion

Refer to section 4.4.

ACART is proposing that ECART should take account of any factors in a relationship that might give rise to coercion or unduly influence a donor's or surrogate's consent to take part in a procedure.

Do you agree? Yes ☐ No ☐

Please give reasons for your views.

No reasonable person would wish to see someone coerced into involvement as a donor, potential parent or surrogate in the procedure. Coertion may involve social pressure or undercover payment of money. It will be extremely difficult to identify. Exactly how ECART will recognise that an individual has been coerced into being involved is not spelled out in the Consultation Document. I believe there is a process with organ donation whereby the donor is separately interviewed by a qualified team, including a psychologist and a social worker, to identify potential coertion. ECART could use a similar process.

Question 7: Limit to number of families with full genetic siblings

Refer to section 4.5.

ACART is proposing that full genetic siblings should continue to be limited to no more than two families.

Do you agree? Yes ☐ No ☐

Please give reasons for your views.

The present policy is in place to ensure a very low risk that full genetic siblings may meet and not knowing their genetic background enter into a married or defacto relationship with a high risk of having children with genetic abnormalities.

Question 8: Legal advice

Refer to section 4.6.

ACART is proposing that ECART must be satisfied that:

- where an application includes a surrogacy arrangement, each affected party has received independent legal advice
- where an application does not include a surrogacy arrangement, each affected party has considered seeking independent legal advice
- any legal reports show that all affected parties understand the legal implications of the procedure(s).

Do you agree? Yes ☐ No ☐

Please give reasons for your views.

Irrespective of whether the proposed policy changes are adopted, these are common sense requirements to the formation of informed consent.

Question 9: Regulation of all family gamete donations

Refer to section 5..

ACART is of the view that all family gamete donations through a fertility services provider should be regulated by guidelines and thus require ECART approval.

Do you agree? Yes ☒ No ☐

Please give reasons for your views.

I agree with ACART's reasons for this requirement.

Question 10: Donation of embryos created from donated gametes

Refer to section 6.1.

ACART is proposing that the guidelines should enable ECART to approve the donation of embryos created from donated eggs and/or donated sperm, provided ECART takes account of the potential complexity of resulting relationships and the gamete donors have given specific consent to the procedure.

Do you agree? Yes ☐ No ☒

Please give reasons for your views.

I have already explained why I disagree with this proposal. In the context under consideration, five people contributing to producing a child is three too many. Having said that, I am less opposed, to the adoption of a donated surplus stored frozen embryo. There must be many thousand of stored surplus embryos in fertility clinics throughout New Zealand. Does ACART or the Ministry know the number?

Question 11: Embryo on-donation and re-donation

Refer to section 6.2.

ACART is proposing that surplus donated embryos:

- should not be able to be on-donated by the recipients
- but can be returned to the donors, in accordance with any agreement between the parties, for re-donation to another party, subject to a new approval by ECART.

Do you agree? Yes ☒ No ☐

Please give reasons for your views.

I regard, as most people do, ownership of embryos in the same way as ownership of children, that is not as property but as unique gifts for whom we have a special caring responsibilty. Embryos are not a commodity or product to be handed around. It follows that the couple who originally conributed the gametes to produce the embryos must remain responsible for those that are remain surplus after donation.

Question 12: Clarification of the status of embryo donation in the regulatory framework

Refer to section 6.3.

ACART is of the view that the regulatory framework should clarify that:

- all embryo donation cases are regulated by guidelines and thus require approval by ECART
- embryo donation does not include cases where an embryo created for a couple is used by one of the couple in a new relationship with the informed consent of the previous partner.

Do you agree? Yes ☐ No ☐

Please give reasons for your views.

I assume the embryo to be donated is a stored frozen embryo and with the understanding that there is the uncoerced informed consent of the previous partner, I would agree with the proposal.

Question 13: Regulation of all clinic-assisted surrogacies by guidelines

Refer to section 8.

ACART proposes to recommend that all clinic-assisted surrogacy cases be regulated by guidelines and thus require ECART approval.

Do you agree? Yes ☐ No ☐

Please give reasons for your views.

I have no reservation about this proposed regulation and entirely agree with ACART's reasons for all clinc-assisted surrogate pregnancies requiring ECART's approval.

Question 14: Any other comments

Do you have any other comments about the proposals in this document?

I have discussed in my submissions to previous ACART consultations my serious concerns about adopting the pragmatic approach whereby ethical decisions are governed and policies determined by the particular situation in which the procedure applies rather than on absolute moral principles. With this approach, as the “goal posts” move so do the ethical policies, reflecting the logic that the ends justify the means. The dangers I see in the present considerations is that the situation ethics approach is resulting a) in erosion of the rights and welfare of the child born from the procedure, and b) in the human embryo (and child) being merely regarded as a commodity to satisfy needs and perceived rights. While I think ACART is attempting in the proposed guidelines to avoid these consequences, I would like to be assured that in the long term my concerns will be found wanting.

I have attached a relevant article on embryo donation contained in the issue of Bionews I recently received.