

Minutes of the one hundred and thirteen meeting of the Advisory Committee on Assisted Reproductive Technology

Held online on 1 May 2025

Present

Debra Wilson (Chair)

Lynsey Cree

Amanda B Lees

Catherine Ryan

Shalomy Sathiyaraja

Karaitiana Taiuru

Apologies

Seth Fraser

Andrew Murray

Neuton Lambert

Non-members present

Richard Ngatai. Ethics Committee on Assisted Reproductive Technology.

Kathleen Logan. Observer, Mana Mokopuna / Children and Young People's Commission.

Natalia Jefferson. Ethics team, Ministry of Health.

Martin Kennedy. ACART Secretariat, Ministry of Health.

Saskia Patton. Manager, Ethics team, Ministry of Health (part of meeting).

1. Welcome and karakia

- 1.1 The Chair opened the meeting at 9.00 a.m. and welcomed the observers. The observers were from Mana Mokopuna / the Children and Young People's Commission and from the Ethics Committee on Assisted Reproductive Technology.

2. Opening comments

- 2.1 The Chair spoke about her attendance at a UK seminar the previous week, where one of the topics of discussion was medical ethics and the future of reproductive technology. One of the main topics of interest in UK at the moment is the *in-vitro* gametogenesis. They are estimating its use in 5 to 10 years, and are identifying the legal issues associated, such as multi-collect parenthood.
- 2.2 The Chair also highlighted other presentations at the seminar including the following.
- a. Posthumous conception in England. The Chair commented on a specific case where verbal consent was provided, instead of the written, which is the norm in NZ.
 - b. USA embryo storage. A ruling by a court said that life began conception. This decision had repercussions in several states, affecting IVF treatments. There was a separate case of legal guardianship of the embryos in case of a marriage dispute. The difference with New Zealand, is that consent is needed by both parties.
 - c. Also in the USA, a recommendation had been made for a law change to state that, on reaching 10-years of storage, if embryos are not going to be used, they should be considered as 'abandoned' and that the state would take custody. The recommendation was made by The Heritage Foundation, "Expanding Access to IVF." This is a non-profit, public policy research institute.
- 2.3 Members discussed:
- whether the rights of the future child had been discussed/considered in the conference
 - options for incorporating tikanga in decisions about posthumous reproduction, and whether tikanga may override consent in NZ
 - whether consent can be verbal.

Action

- *Chair to circulate posthumous conception case to members for further discussion.*

3. Apologies

- 3.1 Seth Fraser, Neuton Lambert and Andrew Murray.

4. Approval of the agenda

- 4.1 Members approved the agenda.

Action

- *Secretariat to add the May 2025 agenda to the ACART website.*

5. Declarations of Interests

- 5.1 Members accepted the declaration of conflicts of interest and one member requested a

change by email during the meeting.

6. Minutes of ACART's meeting in February 2025

6.1 Members accepted the minutes.

Action

- *Secretariat to publish the February 2025 minutes on the ACART website.*

7. Actions arising from ACART's February 2025 meeting

7.1 The Chair reviewed all open actions and provided updates on the Human Reproductive Research consultation document, which is awaiting Minister's approval so it can go out for public consultation.

7.2 The Chair commented on a possible project on pre-implantation genetic testing: she noted the topic is to be discussed later in meeting.

7.3 The Chair commented on a possible joint meeting with ECART. The Secretariat has confirmed that an in-person meeting is planned in the next financial year.

8. Status of ACART's work programme

8.1 Members noted the report.

9. Report on ECART's recent meeting

9.1 A non-lay member had attended as an ACART representative, and she acknowledged the amount of detail the committee goes through. The member highlighted three cases as follows.

9.2 Application for an embryo donation from overseas: the three embryos had gone through Pre-implantation Genetic Testing, and these were to be donated to an NZ couple. The donor's mother had a genetic condition that had a 50% chance to be transmitted to the embryos. The ACART member acknowledged the risk-mitigation, and the best interests of the future child were taken into account when approving the application.

9.3 Extended storage extension declined: there was evidence that the ex-partner had withdrawn consent years ago and had not responded to further communication attempts from the clinic. In this case, the Chair raised a previous case where storage had been extended on case where the provided had passed away and there was no written consent.

9.4 Members raised another case where storage had been approved where the wellbeing of the future child was at risk, and that at times, the committee expressed the challenge to make decisions based on the *storage*, and not the *use*, as applicants are required to submit a separate application for its use.

9.5 The Chair also noted that the age range of parents is increasing. This change may be due, at least in part, to financial stability.

Action

- *Chair referred to the book **Future Directions in Surrogacy Law: Law and policy reform in the UK and beyond**, and will email their chapter to the committee.*

10. ACART's ethical framework: for discussion

- 10.1 The chair noted the presentation had been provided for the new members, and reminded the committee of the roles and duties of members.
- 10.2 The Secretariat noted the project on the online form and discussed engagement approach in a previous consultation process in 2006. A member indicated that in the past, an initiative called 'Deliberate dialogue' had been successful.

11. Correspondence

- 11.1 The Chair referred to the correspondence, sent to Minister Costello in March 2025, that had recommendations for three changes in the HART Act. The recommended changes were for:
- storage for children or at risk for premature infertility (to be set to 20 years)
 - a limit on extension period to be set as 10 years
 - a statement that the 10-year embryo storage start with the creation of embryo, not with the storage of the gametes.
- 11.2 The Minister had written a response to ACART, saying that there are no plans to amend the HART Act in the near future. The Minister noted there are issues that could be addressed.
- 11.3 The Chair advised members she had talked to the Parliamentary Petitions Committee about an extending storage application made out of time.
- 11.4 The Chair advised members she plans to meet with ECART Chair and the Minister to discuss some topics.
- 11.5 Another member noted that the Minister of Justice is responsible for the HART Act and needs to be involved in work to change the act. The member suggested liaising with both Ministers at the time.
- 11.6 A member asked whether there is a timeframe to have the surrogacy bill progressed in parliament. The Chair noted that the timing is unclear and that the bill has been delayed to enable departments to work through a range of implementation matters. The Chair noted that this delay gives ACART and ECART some time to prepare to rewrite the guidelines (to account for matters such as surrogacy costs and what is the limit between reasonable expenses, and commercialising surrogacy).

12. Human Reproductive Research

- 12.1 The Chair referred to ACART's consultation plan, and noted the requirement to hold public meetings and asked members about their availability.
- 12.2 Members provided ideas for engagement with the public for pre and post submissions, where meetings could be held either in person or online, depending on the public's request.
- 12.3 A member suggested holding a webinar and having a panel of members with a range of expertise, or tailoring the submission forms where members of the public could request to meet in person.
- 12.4 Members discussed target groups to discuss the project, including university students, academics, and members of the public. They also suggested a short slide-show with bullet points and a link to submissions from ACART's earlier consultation, as a

conversation starter.

- 12.5 The Observer from the Children and Young People's Commission offered to contact secondary school science teachers to support youth engagement. Members provided ideas to advertise the process (podcasts, radio interviews), reaching out to people that have already made submissions, and contacting the "U3A" (university of the third age).

Actions

- *Secretariat will email stakeholder list to members.*
- *Secretariat will confirm whether there is a budget (koha) to find a communicator to enable engagement.*
- *Members to bring ideas of target people/groups, engagement, and media channels to discuss in next meeting.*

13. Possible project: pre-implantation testing, and uncertain risks

- 13.1 The Chair noted that pre-implantation genetic testing raises a range of ethical questions. Members discussed some of these matters and whether this topic should be on ACART's work programme. Members noted that ACART had received enquiries in the last few months about the activity and that its use is likely to increase.
- 13.2 Members discussed the implications of having embryos with genetic conditions and the likelihood of their use among different demographics. The discussion covered several matters including a) screening, b) whether conditions are monogenic or polygenic, c) what criteria might be used to decide if and when to test, d) the distinction between testing and using embryos, e) the ethical questions that would need to be investigated to decide how to manage such testing f) differing ideas about when a condition should be the basis for not using embryos in reproduction.
- 13.3 Members also noted that ACART needs to be clear about its remit and that there are questions about if and how ACART might investigate matters such as "variants of uncertain significance."
- 13.4 One member asked when IVF cycles are publicly funded, and there was a question about the conditions that public funding would cover.
- 13.5 **Decision.** Members agreed to finalise the scoping paper (with the agreed changes) and to send it to Minister seeking her approval to add the project to ACART's work programme.

Actions:

- *Secretariat to investigate lists of testing that can be done on embryos. Following funded IVF Cycles question.*
- *Secretariat to draft a more refined project scope that will be reviewed at ACART's next meeting on 19 June.*

14. Prioritisation of possible work

- 14.1 The Chair referred to the work that is either underway or being considered for adding to

ACART's programme. Members discussed the topics as follows.

- 14.2 **Pre-implantation testing.** Members had agreed to seek the Minister's agreement to add this to ACART's work programme.
- 14.3 **Contributing to the work on the surrogacy bill.** Members noted that both ACART and the secretariat will need to contribute to the bill from time to time as it progresses.
- 14.4 **Activities that may have two steps** (for example, donated gametes used in surrogacy, and whether these should be treated as one application or two separate ones). This example had been discussed in an ECART meeting in 2024, however, the process is not explicitly stated in the guidelines. Members agreed to seek a clarification on the legal process regarding two-procedure cases and to discuss the findings with ECART's chair at the next Chairs' meeting.
- 14.5 **Potential discrimination** in the regulations, specifically for family gamete donation between males in a same-sex relationship. Members agreed to seek a legal opinion, and the Chair suggested contacting a known, Auckland-based, surrogacy/family lawyer with expertise in this matter. The Chair recounted a past consultation that had gathered feedback, from non-binary and transgender people, that can be taken into consideration.
- 14.6 **Advanced Maternal Age** and the absence of a genetic link in surrogacy cases (particularly from a child's rights perspective). The Chair requested clarification about whether this refers to a surrogate being of advance maternal age, or the intending parents. The members agreed that these guidelines may be related to medical issues, and that ECART members should exercise common sense during decision-making.
Decision: on hold. To be progressed in the future.
- 14.7 **Regulate donations after somatic gene therapy.** Members agreed that ACART should investigate the ethics and regulation of people donating their gametes, or embryos formed from their gametes, after they have had somatic gene therapy. The Secretariat would need to do an initial scoping. The Committee can seek medical research, ideally in the form of a paper to be able to discuss in more depth. Members agreed to seek the Minister's agreement to add this topic to ACART's work programme.
- 14.8 **Womb (uterus) transplants.** Members agreed this is not currently a priority and can be progressed in the future.
- 14.9 **Using genetic editing in fertility treatment and research.** Members agreed this is not currently a priority and can be progressed in the future.
- 14.10 **Artificial placentas.** Members agreed this is not currently a priority and can be progressed in the future.

Actions

- *Seek the Minister's agreement to add a project on pre-implantation testing to ACART's work programme.*
- *Seek a legal opinion on roles are detailed and discriminatory language used.*
- *Seek the Minister's agreement to add a project, to ACART's work programme on the donation of reproductive tissue by people who have had somatic gene therapy.*
- *The Secretariat will draft a proposed work programme for the Chair to confirm.*
- *The programme can then be submitted to Minister along with the current work programme.*

15. Chair's report

- 15.1 Members noted the report

16. Member reports

- 16.1 The Chair reiterated that she has a chapter in the new book *Future Directions in Surrogacy Law*, and will email the chapter to the committee.

17. Secretariat report

- 17.1 The Chair acknowledged the work of the secretariat despite resourcing issues.
- 17.2 The Secretariat mentioned the AABHL conference this year, that will be held in Christchurch. The Chair raised that this conference could be a good instance to progress the engagement of the consultation process.
- 17.3 The Secretariat commented on the trialling of AI at the ministry, and suggested the possibility to use AI for ACART minutes in the future. Members asked about the security of the process, and whether that would require to record the meeting.

18. Work between meetings

- 18.1 The Secretariat is organising the Chair's meeting with Minister, and publishing of documents.

19. Update on appointments

- 19.1 The Ethics team and the Children and Young People's Commission are working on having a permanent appointment from the Children and Young People's Commission. The Secretariat will contact them for placements/renewals later this year.

20. Attendance at ECART meetings in 2025

- 12 June, Debra
- 8 August, TBC
- 10 October, Amanda
- 12 December, Shalomy

Action:

- *Secretariat to confirm availability for the 8th of August ECART meeting from the three members in absentia.*

The meeting closed at 3:04 p.m.