

Proposed Amendments to *Guidelines on Surrogacy Arrangements Involving Providers of Fertility Services* and *Guidelines on Donation of Eggs or Sperm between Certain Family Members*

Notes of meeting with Fertility Associates, Auckland 8 August 2012

Present:

Dr John Angus, Chair, ACART

Associate Professor Andrew Shelling, Deputy Chair, ACART

Dr Mary Birdsall, Medical Director, Fertility Associates Auckland

Joi Ellis, Fertility counsellor

In attendance

Stella Li, ACART Secretariat

The points below reflect comments by one or more attendees, and do not reflect formal agreement by the meeting as a whole.

General feedback

- Attendees appeared to be in consensus about all proposed amendments to the surrogacy guidelines and family eggs or sperm donation guidelines.
- Agreed with ACART's conclusion that the current surrogacy guidelines discriminate on the basis of sex and sexual orientation, and the discrimination was not justified in light of the principles of the Human Assisted Reproductive Technology Act 2004 (HART Act).
- Agreed with ACART's proposal that single men and male couples applying to ECART to enter a surrogacy arrangement should also be able to apply to use eggs donated by a family member.
- Agreed with ACART's proposal that single women and lesbian couples should be able to apply to ECART to use sperm donated by a family member without needing medical justification.
- Agreed with ACART's view that the use of eggs or sperm donated by a family member should be possible where intending parents do not have their own eggs or sperm, or if they do, that there is a medical reason for them not using their own eggs or sperm.

Surrogacy guidelines

- The attendees did not think ACART meant to exclude or discriminate under the current guidelines, but it simply had not been contemplated at the time the guidelines were developed and issued. The proposed changes reflect an observable shift in societal attitudes, particularly amongst the younger generation, in regard to accepting diverse parenting situations.

- Attendees were concerned that single women may be discriminated against if a woman is in need of a donated egg (for example if she had premature ovarian failure) and could not carry the baby herself. However, the participants support the general principle that one intending parent has a genetic link to a potential child.
- Attendees supported ACART's statement in the proposed guidelines that surrogacy should not be used for convenience.
- According to the attendees, the reasons people use fertility services is to show they have followed proper procedures, and ensure their child's legal status can be changed (as ECART's approval of the arrangement would be strong evidence to back their case).
- Barriers which deterred people from utilising the formal ECART application process were cost and time. Some people view ECART applications with frustration, and see the process as an unjustified exercise of power by a faceless group of people who do not know them.
- Intending parents prefer a surrogate to participate in counselling to minimise the risk she will change her mind and keep the baby. Fertility Associates Auckland provides counselling to surrogates and intending parents outside of the clinic. An attendee (a counsellor) did not consider this compromised counsellors' position with the clinic, because they saw counselling as being independent to the clinical fertility service. They only communicate information, and provide an opportunity for parties to consider the options available and its implications. This creates the issue of what 'involvement' means.
- An issue discussed was the status of age as an eligibility factor. Fertility Associates Auckland says it does not have age limitations for their services because such a limitation would be contrary to the Human Rights Act 1993. They asked ACART to provide further assistance concerning age as an eligibility criterion.
- ACART members responded that setting an age criterion may be superfluous in some circumstances. The age issue is frequently linked to the risks associated to a woman's health. However, a 50 year old woman may be healthier than a 40 year old woman and she may be better suited to carrying a baby from a clinical perspective.

Family eggs or sperm donation guidelines

- Attendees supported ACART's proposed amendments to the current guidelines for family eggs or sperm donation.
- The attendees brought up the potential scenario of single women being discriminated against if they required a donated egg and also a surrogate for medical reasons. Members reiterated the position that a genetic or gestational link is required given the issues linked to the lack of genetic contribution and its implications on the child's identity.