

**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 counsellors, Auckland**

**8 August 2012**

**Present**

Dr John Angus, Chair, ACART

Associate Professor Andrew Shelling, Deputy Chair, ACART

Joi Ellis (Auckland), Helen Nicholson (Auckland) and Sue Saunders (Hamilton)

**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.
- Found the document straightforward.
- Mentioned it would be interesting to see how the current discussion about gay marriage may influence the current context in which the guidelines will sit.

## **Surrogacy guidelines**

- An attendee noted a case where a couple needed to use a surrogacy arrangement because the woman had no uterus. The impact of the process on the fertile couple was distressing, because they had to seek ECART consent to use their own genetic material. They understood why the procedures existed, but nonetheless found it frustrating. They also found the adoption process insulting, having to attend a non-genetic parenting course. Other attendees noted that the process required by Child Youth and Family in this case appeared to be inconsistent with general Child Youth and Family procedures for gestational surrogacy arrangements.
- The attendees' said they wanted counsellors' reports to ECART to be clear and straightforward for effective and well-informed decision making. Since clients read reports before they went to ECART, counsellors may face the difficulty of balancing a report which frames information accurately (particularly where concern needs to be expressed), but in a manner which does not offend a client so as to maintain an open and honest relationship.
- There is potential for complexity when ECART seeks an opinion. Attendees recognised this is a subjective area.
- The attendees said they can predict ECART's decisions. Generally applications are not declined because if the counsellor has been thorough, any potential issues would have been addressed earlier in counselling.
- Attendees also noted that there are online forums where people exchange information to prepare those embarking on surrogacy arrangements with 'good' answers or to cherry-pick a facilitating clinic.
- The counsellors were of the view that surrogates view ECART as a gatekeeper to the process.
- The issue of age concerned the attendees. However, attendees were also of the view that age cannot be considered in isolation from other factors. Other factors also need to be considered, for example the health of the intending parents, social factors and availability of support. Two examples were discussed in confidence.
- A common argument against older parents is concern for the well-being of the child. The argument is that the child would be disadvantaged by having a significantly older parent. The counter-argument is that age cannot be a factor, when one considers grandparents can make excellent substitute parents for some children. In light of these arguments, the attendees agreed that the best interests of the child were of primary importance.
- Attendees were of the view that the Human Rights Commission prevents service providers from denying services solely on the basis of age.

### **Family eggs or sperm donation guidelines**

- Attendees suggested there should be a review of some scenarios, where they considered ECART consideration is unnecessary. One example is the 'in-law' situation, where ECART approval is needed for egg donation by a brother's wife. Attendees found it inconsistent that it was possible to use a complete stranger's egg without ECART approval, but not possible to use the eggs of an in-law without ECART approval.
- The attendees and ACART discussed the potential risk of coercion. The attendees said in all their ECART applications, there was only one situation in which coercion was contemplated. There may be scope for an increased risk of coercion in some cultures; however other factors such as economic control or the relationship itself (e.g. mother-daughter, or older sister-younger sister) are likely to have greater coercive influence.
- The role of counsellors is integral to the process. It is standard procedure for the egg or sperm donor to undergo two counselling sessions. The attendees appreciated ECART's accessibility, and would write to ECART if they were anxious about a particular arrangement.