

**Notes of meeting to discuss implications of proposals for intersex and
transgender people
Rydges Hotel, Wellington
27 September 2012**

Attendees

Dr John Angus (Chair, ACART)
Associate Professor Andrew Shelling (Deputy Chair, ACART)
Ivy Robinson
Pachali Brewster
Emily Haskell
Alex Papanastasiou
Kate Scarlet
Rosie Jimson-Healey
Griffin Nichol
Dominique Dewitt
Ryan Kennedy
Mani Mitchell
Kay Jones
Kiesia Croucher
Rougé

In attendance

Betty-Ann Kelly (ACART Secretariat) (briefly)
Stella Li (ACART Secretariat)
Chris Wilson (ACART Secretariat)
Dev Oza (Manager, Business Services and Committee Support, Ministry of Health)

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

Betty-Ann Kelly opened the meeting by thanking Mani Mitchell for helping organise the meeting. Betty-Ann gave a brief overview of New Zealand's regulatory framework for assisted reproduction and ACART's role within this.

Andrew Shelling and John Angus explained the background to the work to review eligibility criteria in the *Guidelines on Surrogacy Arrangements involving Providers of Fertility Services* and the *Guidelines on Donation of Eggs or Sperm between Certain Family Members*. John noted that the submission from Community Law had urged ACART to consult the transgender and intersex communities. Andrew noted that one of the purposes of the Human Assisted Reproductive Technology Act 2004 was to secure the benefits of assisted reproductive technology for all New Zealanders.

Attendees noted:

There are problems with the language in the proposed guidelines

- The language throughout the discussion document is very binary (“man” and “woman”).
- The language in the document creates a barrier for intersex people.
- A lot of trans people do not identify as either a “man” or a “woman”.
- The term “eligible woman” was difficult for trans people.
- The term “same sex” was hard to understand.
- Being trans is not a choice.

There is a lack of understanding in the health sector about the needs of people in the trans community

- People in the trans community object to their gender identity being framed as a psychological problem.
- A continual problem for the trans community is the lack of understanding in the medical profession. This can mean that people repeatedly have to explain themselves and be placed in the position of having to advocate and educate in order to receive health services.
- The policy needs to remove the barriers to access, and ensure people are not subjected to intrusive investigation.
- Two women in a relationship are not necessarily lesbian. Two women in a relationship do not necessarily have a uterus between them.

The proposed guidelines assume that if someone has a womb and wants to become a parent, the person should carry a pregnancy

- The “eligible woman” criteria could create a perverse incentive for a woman to become “eligible” by engaging in self-harm. This could create a situation similar to what happened historically when abortion was illegal. People will take whatever means necessary to achieve the outcome they want.
- In order for a trans person to get treatment they have to demonstrate a dysphoria. Then to access surrogacy they have to demonstrate they are unable to have children but also demonstrate that they are able to look after a child. In this situation a trans person has to demonstrate being unwell in two places then wellness in one place.
- There are many reasons why a woman is unable to carry a pregnancy.

- In many female couples, only one of the women sees herself as intending to carry a pregnancy in order to have a child: for that woman, the intention is an important part of her gender identity. But for the other woman, a potential pregnancy may not be part of her gender identity and may be harmful.
- The eligibility criteria should focus only on the person who intended to become pregnant. Assisted reproductive technology has moved towards a greater emphasis on the reproductive autonomy of the individual.
- The case of Thomas Beatie, a trans man in America who has borne three children, has led to assumptions that trans men with a womb can carry a child. However, trans men are in a wide range of circumstances.
- If a person is known as a man, but is transitioning from being a woman and still has a womb, it could be dangerous for him to carry a child. Risks include the clinical impacts of hormone treatment on the reproductive system (e.g. atrophy of the womb), and adverse social reactions including the risk of physical violence.
- It is important to clarify that a trans person who chooses not to carry a child is not doing so for convenience.

People need to be recognised in policy and its implementation

- The intersex and trans communities were delighted to be included in consultation. The consultation has opened a very large can of worms. The work ACART is doing is very important because many intersex and trans people would make good parents.
- Having a genetic link to a child is not vital considering New Zealand research has shown 1 in 20 heterosexual men are looking after a child that is not their own genetic offspring.
- The intersex community is keen to help with developing the new guidelines.
- Many people in the general public mistakenly assume that trans people do not want to have children.
- Is there a risk that ethics committees would be “taken over” by fundamentalist interests? (The Chair and Deputy Chair noted that ACART and the Ethics Advisory Committee on Assisted Reproductive Technology have a diverse membership representing a variety of perspectives.)
- Would an ethics committee see a trans woman as a man or woman?
- If the human rights issues for trans people are not dealt with now, these problems of access and recognition will arise again.
- One parent in a same sex relationship can only become a guardian rather than adopt a child which creates problems for inheritance.
- The review of these guidelines will lead to the review of other ACART guidelines to ensure they are not discriminatory.
- Poly arrangements in relationships could confuse things even more.
- The trans community has the task of arguing for access to public funding for assisted reproductive technology, in a context where some taxpayers are opposed to same sex relationships.