

28 September 2020

The Secretariat
ACART
PO Box 5013
Wellington

Dear Secretariat

Proposed Guidelines for the Posthumous Use of Gametes, Reproductive Tissue and Stored Embryos consultation

Thank you for the opportunity to provide feedback on ACART's second consultation document in which you present the proposed guidelines and raise important ethical questions for consideration by the public and others interested in this topic. ECART has considered the consultation document. Its response is set out in the attached ACART feedback form.

ECART wishes to note that there is a distinction to be made between situations where there is provision of consent at the time of storage, versus retrieval situations. It considers that this distinction is currently not clear in the consultation document, leading to a lack of clarity about the meaning and applicability of some of the questions asked by ACART. ECART suggests that making this distinction simplifies the issues which follow.

ECART also wishes to ensure that ACART is aware that ECART is strongly opposed to any suggestion that ECART could lawfully authorise the posthumous retrieval of gametes. ECART does not believe that the HART Act provides ECART with any such power, and is of the view that, were it to do so, it would be acting *ultra vires*.

ECART appreciates that one of the reasons that ACART may wish to suggest that ECART is able to undertake this role might be because it would allow ACART to issue guidelines which apply to the posthumous retrieval of gametes. However, ECART suggests that the guidelines could, in any event, address the considerations which ECART ought to take into account when considering an application for use of gametes retrieved posthumously by order of the Court. The Court is likely to attribute some weight to any such guidelines when considering whether or not to authorise posthumous retrieval of gametes in relation to a particular case before it.

ECART thanks you for the opportunity to comment. It is, of course, also open to discussing any aspects of its response further with ACART should ACART find this useful.

Yours sincerely



Iris Reuvecamp
Chairperson
Ethics Committee on Assisted Reproductive Technology