Meeting with fertility clinics on *Import and Export of Gametes and Embryos: Proposed advice to the Minister of Health*

6 March 2014 3.30-4.30pm

Attendees:

John Angus, Chair, ACART

Neil Johnson, Medical Director, Fertility Plus

Margaret Merrilees, Scientific Director, Fertility Plus

Helen Nicholson, Counsellor, Fertility Plus

Alex Price, Chief Executive, Fertility Associates

John Peek, Group Operations Manager, Fertility Associates

Joi Ellis, Counsellor, Fertility Associates

Guy Gudex, Clinical Director, Repromed

Stella Li, ACART Secretariat

Discussion on *Import and Export of Gametes and Embryos: Proposed advice to the Minister of Health*

1. *Import and subsequent use of gametes and embryos*

- Attendees agreed the principles and requirements of the HART Act should apply in all cases where people wish to import into and use in New Zealand gametes and embryos sourced or created in other countries.
- Sometimes there are difficulties balancing legal restrictions (such as the prohibition against commercially sourced gametes) and the principles of the HART Act (such as the best interests of the child). Some clinics do this through case by case consideration by clinic directors.
- The attendees discussed where a migrant family might wish to import an embryo created overseas from a known donor but that has been commercially sourced, intending to provide a full genetic sibling for their existing child born from ART. The attendees asked whether a stricter interpretation of the commercial element might preclude the potential benefit (when considering the best interests of the child) to have a full genetic sibling from an identifiable donor. Clinics have considered that the benefits of full sibling status outweigh the negatives of commercial source of sperm.
- Attendees also discussed "borderline" cases. For example where in some countries access to altruistic donors is minimal because commercially sourced gametes are the norm. Or where the commercial element in respect of payments is minimal and is in fact similar to New Zealand's compensation scheme.
- There was consensus that it was important and necessary to apply the principles and requirements of the HART Act, but ACART was asked to consider in its advice, whether an appropriate question to be asked in borderline cases of import of

gametes and embryos is “What is the extra ethical burden?” and how can it be expressed.

2. *Export of gametes and embryos*
    - Attendees agreed that the export of gametes and embryos should be possible.
    - However, clinics have limited control over the subsequent use of exported material. They have no way to ensure it will be used consistently with the principles and requirements of the HART Act once outside their clinic.
    - Clinics can do their due diligence by informing their clients of this requirement, but the issue is that people may just tell clinics what they want to hear.
    - Attendees talked about whether export should be possible provided that gamete providers, including donors, have given informed consent to the export of their gametes or embryos created from their gametes.
    - In particular they discussed whether a donor would have to give consent if an embryo had been created from their donated gametes, and the intending parents move overseas.
        - Attendees felt there would be unanimous agreement within the sector that once a donated gamete is used to form an embryo, the gamete donor relinquishes all rights over their donated material. The underlying thought is that the gamete no longer exists, and now exists as a different entity. This line of thinking means if a consumer wishes to export an embryo created from donated gametes, they would not need to seek the consent of the gamete donor.
        - Attendees agreed that consent is thoroughly discussed with donors in the counselling process and clearly advised on consent forms for gamete donors.
        - It was noted that this issue will be addressed in the work being done on consent by ACART.

3. *Decisions about import and export for assisted reproductive procedures*
    - Attendees agreed that it is preferable for providers to continue making decisions about import/export, and the use of imported gametes and embryos on the basis of Ministry of Health advice. They did not think there was a need to use an existing body (such as ECART) or create a new regulatory body to make those decisions.

4. *Decisions about import and export for human reproductive research*
    - Attendees agreed ECART should continue to considering and deciding applications to undertake human reproductive research using ACART guidelines, but there was no need for this role to be made explicit.

5. *Regulations*

- Some attendees were of the view that regulations should not be made about the requirements for the import and export of gametes and embryos. They appreciated the latitude for clinical override and discretion, and the ability to look at cases individually. They argued that clinics had demonstrated a responsible approach to this and there was not a problem to be addressed through regulation.
- Current practice by one provider is making case by case decisions using the principles of the HART Act.
- With each case, it was a matter of considering the extra ethical burden, and recognising where the positives could outweigh the negatives.
- Concern was expressed around the possibility of developing overly prescriptive regulations.
- On the other hand, some attendees supported the development of regulations about the requirements for import and export of gametes and embryos. Clarity and transparency would be welcomed.
- Attendees were told that providers were likely to be consulted if such regulations were drafted.

6. *Donor compensation*

- There was discussion about whether the Ministry of Health should consider guidance to fertility services providers that allows for increased levels of donor compensation, particularly for egg donors.
- Attendees agreed that there was scope for more generous compensation, but did not feel it was appropriate to set a maximum level of compensation to donors.
- Attendees also agreed that most people will continue to be driven by altruistic motivations to donate even if compensation increases. It is unlikely that this will increase gamete donation, but it may help.
- One attendee talked about increasing compensation for donors may change the current donor pool composition.
- The attendees also talked about specific reasons people would choose to find an overseas egg donor instead of looking at New Zealand's egg donor pool. The most common driver is access to a large and varied donor pool for ethnic matching, younger donors and lesser wait time.
- Attendees agreed that if the Ministry were asked to consider guidance about expenses for donation, this should also be considered for surrogates.

7. *Public health information*

- Attendees agreed that the Ministry of Health should be asked to consider public health information about the impact of age and other factors on fertility, and about gamete donation.

8. *Data about offshore fertility treatment and outcomes*

- While attendees considered that it would be useful to collect data about the use and outcomes of offshore fertility treatment by New Zealanders, they also expressed that collecting such data would be tricky.
- Attendees suggested that if data collection was requested of providers, that it be a specific data collection exercise, i.e. setting specific outcomes, objectives and time frames.