

Minutes of the ninety-third meeting of the Advisory Committee on Assisted Reproductive Technology

Held on 21 October 2021, in person and online.

Present

Kathleen Logan (Chair)
Calum Barrett (Deputy Chair)
Rosemary De Luca (online)
Seth Fraser
Karen Reader
Catherine Ryan (online)
Karaitiana Taiuru
Analosa Veukiso-Ulugia (online)
Sarah Wakeman

Non-members present

Zoe Bengé, ACART Secretariat
Martin Kennedy, ACART Secretariat
Hayley Robertson, ACART Secretariat
Mirae Wilson, ACART Secretariat

1. Welcome

- 1.1 The Chair opened the meeting at 9.00 am and gave the opening comments.
- 1.2 The Chair informed members that she hopes to step down as Chair in the near future as her term ended earlier in 2021 and she has numerous other commitments. She will be happy to continue as the representative for the Office of the Children's Commissioner until a new person is appointed to that role. She also observed that until a new Chair is appointed the Deputy Chair would be the Acting Chair.

2. Apologies

- 2.1 Nil.

3. Approval of the agenda

- 3.1 Members approved the agenda.

Action

- *Secretariat to add the October agenda to the ACART website.*

4. Declarations of Interests

- 4.1 No conflicts of interest were declared.

5. Minutes of ACART's meeting of August 2021

- 5.1 Members approved the minutes subject to minor changes.

Action

- *Secretariat to amend the August minutes and publish on ACART's website.*

6. Actions arising from ACART's August meeting

- 6.1 Members noted the status of the actions from the August meeting.

7. Status of ACART's work programme

- 7.1 Members noted the report.

8. Chair's report

- 8.1 Members noted the report.

9. Members' reports

- 9.1 No items this meeting.

10. Correspondence

- 10.1 Members supported the draft letter to the Minister about governance options and meeting obligations under te Tiriti o Waitangi / the Treaty of Waitangi.

Actions

- *Secretariat to send the letter.*

11. Secretariat report

- 11.1 Members noted the report.
- 11.2 There was a discussion about if and how reference material might be circulated and possibly kept online in a place that all members could get access to. The Secretariat will look into options.

Actions

- *Secretariat to look into options for sending and/or storing reference material.*

12. Report on ECART's June meeting

- 12.1 Members noted the report.
- 12.2 A member noted that in two cases the intending parents were overseas and there was a discussion about how travel restrictions, due to COVID-19, had changed some people's plans for fertility treatment.
- 12.3 There was a discussion about ECART's role and the need for some clinical matters to be addressed by the presiding physician — for example safety of treatment at advanced ages (since ART aids family formation beyond 'normal' reproductive age).

13. ANZARD report

- 13.1 The Secretariat presented the item, noting that final formatting and the foreword are to be confirmed.
- 13.2 Members were grateful for the presentation of the ten-year trend information and noted that the live birth rate has not increased despite advances in technology. This absence of increase is likely to be multi-factorial and could include factors such as the increasing age of intending parents and gamete donors, and reduction of double embryo transfers over the years.
- 13.3 There was a discussion about ethnicity data and the Secretariat advised members that some ethnicity information will be presented in the next ANZARD report. The Chair recapped earlier discussions, noting that data about ethnicity and access to fertility services is very limited. Specifically, most (about 80 percent) of fertility treatment in New Zealand is privately funded, and ethnicity data does not need to be recorded by the private providers. Further, although some of the ethnicity data available is for publicly funded treatment there is no data about who might want fertility treatment but does not have access to it. The data is about who actually presents for treatment and the subsequent treatments (or assessments) they get.
- 13.4 Members asked the Secretariat to seek comments from the Ministry of Health's

Māori and Pacific health teams(s) on the ethnicity data in the future reports. Members asked the secretariat to publish the DHB-sourced ethnicity data that had been circulated previously. However, it was noted that they would now be out of date, and people can get such data directly from the Ministry.

Actions

- *Secretariat to seek comments from the Ministry of Health's Māori health teams(s) on the ethnicity data in the future reports.*
- *Secretariat to publish the 2018 ANZARD report and trends table on ACART's website.*

14. Meeting dates for 2022

14.1 Members discussed ACART's meeting dates for 2022, agreeing the following.

- Thursday, 3 March
- Thursday, 5 May
- Thursday, 30 June
- Thursday, 25 August
- Thursday, 20 October
- Thursday, 15 December.

Extra item: the development of human embryos

- The member with expertise in human reproductive research presented a summary of how human embryos develop. She explained the main stages of development including how and when the embryo/foetus can experience pain based on presence of necessary biological apparatus, and the age at which it can survive outside the womb and how much medical aid it might need depending on how premature it is. The member said that the first time a foetus can subconsciously feel pain is thought to be at 20 weeks gestation.
- Members noted that the Warnock report from 1984 seems to have set the basis for the 14 day rule which has prevailed for a very long time.
- Members discussed this information, noting some other attributes that arise in the philosophical discussions about embryos, humanity, the individual and rights. One of the key concepts is sentience.
- Members noted the importance of this information for ACART's ethical framework, the guidelines and human reproductive research, and the prohibition on research on *in vitro* human embryos after 14 days.

15. Review ACART's Ethical Framework

15.1 A sub-group of members had recently discussed ACART's Ethical Framework noting two objectives. One objective was to take account of ACART's obligations under te Tiriti o Waitangi / the Treaty of Waitangi in the framework. The other objective was to consider if and how the commentary about the moral status of human embryos could or should be amended. The inclusion of Treaty requirements will be done separately, the first discussion having focused on the moral status of the embryo.

- 15.2 Members of the sub-group had considered whether an ethical statement on the status of the embryo would be useful in the consultation document to revise ACART's guidelines for human reproductive research (HRR). The questions asked in the consultation document should address concerns from the ethical statement and allow people to raise views not covered in the statement. It was discussed that the statement ought not impose ACART's opinion ahead of the HRR consultation, noting that ACART is trying to gather opinions rather than state one. The statement can be updated after the consultation to reflect the views of the public and attached to the HRR guidelines.
- 15.3 Members discussed concepts such as whether an embryo has personhood, what legal rights it might have, and how it can have identity and value to the intending parents even if the law affords it no legal rights. It was suggested that embryos ought to be treated with respect on the basis that they are precious.

Actions

- *Secretariat to further develop the ethical statement based on the discussion above.*
- *The member with expertise in Māori interests to revise the Ethical Framework upon the publishing of their thesis.*

16. The 14 day limit on embryo research

- 16.1 Members acknowledged that the Human Assisted Reproductive Technology (HART) Act 2004 prohibits research on in vitro human embryos beyond 14 days of development. Members acknowledged that some other jurisdictions are currently debating whether to extend the 14 day rule, and discussed recent research on the subject. Members noted that debate on the 14 day rule was still evolving, and agreed not to investigate seeking an increase to the limit at this time.

17. Cryopreserved testicular tissue

- 17.1 There was a discussion about the submissions and in particular about the point that, in many cases, the material that is frozen is not, strictly speaking, testicular tissue. Often, once the tissue has been obtained, it is subjected to laboratory processes to extract spermatozoa and is no longer recognisable as testicular tissue.
- 17.2 Based on this discussion, the Chair suggested the following wording to ensure clarity regarding ACART's recommended change to the HART Order:

"Cryopreservation of spermatozoa including testicular tissue and associated cell preparations used to collect sperm should be in the list of established procedures".

Actions

- *Secretariat to draft a letter to the Minister of Health, recommending a change to the HART Order.*

18. Plan and allocate work to build relationships with Māori

- 18.1 Members discussed ways in which relationships with Māori could be established and/or strengthened. The member with expertise in Māori interests suggested

several groups to add to the list of stakeholders.

- 18.2 There was a discussion about how ACART could or should approach Māori and the member with expertise in Māori interests offered to help arrange those approaches. The member suggested that members could also individually approach people with a view to creating relationships between ACART and Māori.

Actions

- *The member with expertise in Māori interests to send the Secretariat groups to add to the stakeholder list.*
- *Member with expertise in Māori interests to check the stakeholder list.*
- *Member with expertise in Māori interests to liaise with the Secretariat to initiate contact with Māori interest groups.*

19. Advice and guidelines for posthumous reproduction

- 19.1 The Secretariat gave an oral update (no papers for this item), noting that the advice to the Minister of Health has been finalised by the working group on posthumous reproduction, though there are minor formatting changes to make.

- 19.2 The Secretariat noted that a first draft of the supplementary guidance that will accompany the advice to the Minister has been developed for members consideration. The working group will need to see this guidance.

Actions

- *The Secretariat to organise a working group before the 10 December ACART meeting to consider the supplementary guidance to accompany the Advice to the Minister.*

20. Guidelines for extending storage: working group

- 20.1 This item was a working group. The output of the discussion will be the finalised version of the consultation document and consultation plan to commence in March 2022.

Actions

- *Secretariat to amend and finalise the consultation document*
- *Secretariat and working group to target March 2022 for the commencement of the consultation plan.*

21. Guidelines for human reproductive research: working group

- 21.1 This item was a working group. The next steps, agreed by members, will be made by the Secretariat. The steps are to amend the consultation document and prepare it for ACART's next full meeting. A key focus is to set out each of the definitions that need to be considered.

Actions

- *Secretariat to amend the consultation document for the December meeting,*

including definitions.

22. Work between meetings

22.1 Discussed with each project/policy item, above.

23. Appointments

23.1 The Secretariat updated members on appointments, advising them that the recommendations had been sent to Minister Henare and would be presented to Cabinet (APH) in due course.

24. Attendance at ECART

24.1

- 29 October, member with expertise in Māori interests.
- 9 December (recently confirmed new date), member with a lay perspective and legal knowledge.

The meeting closed at 3:30 pm.