Guidelines on Donation of Eggs or Sperm between Certain Family Members
Guidelines on Donation of Eggs or Sperm between Certain Family Members

Preamble

The Human Assisted Reproductive Technology Order 2005 (the HART Order) sets out the procedures that do not require ethical approval – “established procedures”. The HART Order describes the collection of eggs or sperm for the purposes of donation as established procedures.

The HART Order further sets out the requirements where eggs or sperm are donated between family members.

Ethical approval is not required for the following family donations:

- in the case of donated eggs, the donor is a sister or cousin of the recipient woman (where both are 20 or older)
- in the case of donated sperm, the donor is a brother or cousin of the recipient woman’s spouse or partner (where both are 20 or older)
- in the case of a procedure that involves the use of the eggs of the female partner of the recipient woman and donated sperm, the sperm donor is a brother or cousin of the recipient woman (where both are 20 or older).

Any other proposal for the collection and donation of eggs or sperm between family members requires ethical approval and must be submitted to the Ethics Committee on Assisted Reproductive Technology (ECART) for approval. The HART Order defines who is a family member, in relation to a person:

- any other person who is or has been related to the person by blood, marriage, civil union, de facto relationship, or adoption
- any other person who is a member of the person’s whānau or other culturally recognised family group.

Note that the definitions of donated eggs and donated sperm do not include:

- sperm contributed by the spouse or partner of the patient
- eggs contributed by the spouse or partner of the patient.

Donations by family members involve risks for the adult parties and resulting children. The risks include the potential for coercion because of the relationship between a donor and recipient. There may also be a lack of clarity about family relationships once a child is born.
The HART Order requires that any procedure that involves using donated eggs in conjunction with donated sperm must be approved by ECART, regardless of the source of the donated eggs and the donated sperm, in accord with the Guidelines on the Creation and Use, for Reproductive Purposes, of an Embryo Created from Donated Eggs in conjunction with Donated Sperm.

Nothing in these guidelines is intended to discriminate on the basis of sex, sexual orientation or gender identity.

Applications that fall under more than one of ACART’s guidelines

Where applications to ECART fall under more than one of ACART’s guidelines, these guidelines should be read in conjunction with ACART’s advice to ECART Advice on applications that fall under more than one of the guidelines issued by the Advisory Committee on Assisted Reproductive Technology. The advice is in effect from 16 December 2013 and is available on ACART’s website at www.acart.health.govt.nz.

Guidance on terms used

In these guidelines unless the context indicates otherwise, words should be interpreted in accordance with definitions given in the Human Assisted Reproductive Technology Act 2004 and the Human Assisted Reproductive Technology Order 2005.

Guidelines

1. When considering an application for donation of eggs or sperm between certain family members, ECART must be guided by the principles of the Human Assisted Reproductive Technology Act 2004:

   **Principles**

   All persons exercising powers or performing functions under this Act must be guided by each of the following principles that is relevant to the particular power or function:

   (a) the health and wellbeing of children born as a result of the performance of an assisted reproductive procedure or an established procedure should be an important consideration in all decisions about that procedure;

   (b) the human health, safety, and dignity of present and future generations should be preserved and promoted;

   (c) while all persons are affected by assisted reproductive procedures and established procedures, women, more than men, are directly and significantly affected by their application, and the health and wellbeing of women must be protected in the use of these procedures;

   (d) no assisted reproductive procedure should be performed on an individual and no human reproductive research should be conducted on an individual unless the individual has made an informed choice and given informed consent;
(e) donor offspring should be made aware of their genetic origins and be able to access information about those origins;
(f) the needs, values, and beliefs of Māori should be considered and treated with respect;
(g) the different ethical, spiritual, and cultural perspectives in society should be considered and treated with respect.

2. When considering an application for donation of eggs or sperm between certain family members, ECART must determine that:
   (i) there is a need to use donated eggs or donated sperm
   (ii) each party has received counselling in accordance with the current Fertility Services Standard.

3. When considering an application for donation of eggs or sperm between certain family members, ECART must take into account all relevant factors, including:
   (i) whether the potential impact of the genetic, social, cultural, and intergenerational aspects of the proposed arrangement safeguards the wellbeing of all parties and especially any resulting child
   (ii) whether counselling has:
       – included implications counselling for all parties
       – included joint counselling for all parties
       – been culturally appropriate
       – provided for whānau/extended family involvement
       – provided for the inclusion of any children of the parties
   (iii) whether counselling will be accessible to all parties throughout the treatment process
   (iv) whether the residency of the parties safeguards the wellbeing of all parties and especially any resulting child.

4. ECART must not approve an application for donation where any resulting child would be formed by eggs and sperm from:
   (i) father and daughter
   (ii) mother and son
   (iii) brother and sister
   (iv) grandfather and granddaughter
   (v) grandmother and grandson.