

HFEA Statutory Approvals Committee

13 December 2013

Finsbury Tower, 103-105 Bunhill Row, London, EC1Y 8HF

Minutes – Item 7

Centre 0035 (Oxford Fertility Unit) – Application for a Special Direction to export patient sperm to Instituto Bernabeu, Spain

Members of the Committee:	Committee Secretary:
David Archard (lay) Chair	Lauren Crawford
Sue Price (professional)	
Rebekah Dundas (lay) (teleconference)	Legal Adviser:
Jane Dibblin (lay)	Graham Miles, Morgan Cole
Hossam Abdalla (professional)	
	Observing:
	Sam Hartley, Head of Governing and Licensing

Declarations of Interest: members of the Committee declared that they had no conflicts of interest in relation to this item.

The following papers were considered by the Committee

- Executive Summary
- Application form
- Letter from intended export centre destination centre
- Further information from the centre in support of the application

The Committee also had before it

- HFEA Protocol for the Conduct of Licence Committee Meetings and Hearings
- 8th edition of the HFEA Code of Practice
- Human Fertilisation and Embryology Act 1990 (as amended)
- Decision trees for granting and renewing licences and considering requests to vary a licence (including the PGD decision tree); and
- Guidance for members of Authority and Committees on the handling of conflicts of interest approved by the Authority on 21 January 2009.
- Guidance on periods for which new or renewed licences should be granted
- Standing Orders and Instrument of Delegation
- Indicative Sanctions Guidance
- HFEA Directions 0000 – 0012

- Guide to Licensing
- Compliance and Enforcement Policy
- Policy on Publication of Authority and Committee Papers
- HFEA Pre-Implantation Diagnostic Testing (“PGD”) Explanatory Note For Licence Committee

Discussion

1. The Committee noted that this centre has applied for a special direction to export four ampoules of a patient’s sperm to Instituto Bernabeu, Spain.
2. The Committee noted that the HFEA Act 1990 (as amended) permits the Authority to issue directions to allow the export of gametes or embryos to countries outside the United Kingdom. Furthermore, the Committee noted that if a licensed centre meets all requirements set out by General Directions 0006, of which there are nine, export is permitted without the need for special directions.
3. The Committee noted that this application for a Special Direction is being made because the centre is unable to export the sperm under the auspices of General Directions 0006 because they are not able to meet the requirements of section (d) of schedule 2 of General Directions 0006: that ‘no money or other benefits has been given or received in respect of the supply of gametes or embryos unless the money or benefit received is in accordance with Directions 0001 (Gamete and embryo donation) or any subsequent Directions given by the Authority relating to giving and receiving money or other benefits’ and section (f) of schedule 2 of General Directions 0006: ‘the gametes or embryos are not exported if they could not lawfully be used in licensed treatment services in the United Kingdom in the manner or circumstances in which it is proposed that the gametes or embryos be used by the receiving centre.
4. The Committee noted specifically that the sperm will be used in the fertilisation of donor eggs that have been procured from an anonymous egg donor in Spain. Creating an embryo from sperm and an anonymously donated egg in the UK would not be lawful. The Committee regarded the UK requirements for identifying donors to be important. Special directions would not be granted routinely, or where the purpose or dominant effect appeared to be to circumvent those requirements.
5. The Committee further noted that the centre states that it is not feasible for the patient to be able to travel to Spain to undergo a further surgical sperm retrieval procedure due to the risks involved and the lack of guarantee to find viable sperm.

6. The Committee noted that the applicant stated that 'the patients will be obliged to find a clinic in the UK with variable waiting times to receive donated eggs. More importantly it will obstruct their lawful right to choose a clinic of their choice based on their personal preferences (success rates...)'. The Committee considered that it did not have enough information to make an informed decision.
7. The Committee urged the centre to provide more information to show why the export is necessary, specifically:
 - egg donor availability within the UK, why the waiting times in the UK may present delays to treatment, and whether ethnicity is a factor;
 - further explanation of the reasons why treatment in the UK cannot be considered a realistic option, and why the centre in Spain is preferred (for example, success rates were mentioned by the centre);
 - what information the patient has received about donor availability in the UK; and further what counselling he has received; and
 - any other reasons to support why this treatment abroad is necessary.
8. The Committee agreed to adjourn consideration in order that further information could be obtained from the centre.

Signed:

Date: 30/12/2013

A handwritten signature in black ink, appearing to read 'DWA' followed by a stylized flourish.

David Archard (Chair)