

HFEA Statutory Approvals Committee

27 February 2014

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

Minutes – Item 1

Centre 0061 (CARE Sheffield) – Application for a special direction to export patient embryos to Clane Fertility Clinic, Republic of Ireland

Members of the Committee:	Committee Secretary:
David Archard (lay) Chair	Lauren Crawford
Debbie Barber (professional)	
Rebekah Dundas (lay)	Legal Adviser:
Hossam Abdalla (professional)	Stephen Hocking, DAC Beachcroft
Jane Dibblin (lay)	
	Observing:
	Sam Hartley, Head of Governance and Licensing
	Matthew Watts, Policy Manager

Declarations of Interest: There were no conflicts of interest declared on this item.

The following papers were considered by the Committee:

- Executive Summary
- Application form & additional information from the PR
- Further information 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 two of a patient couple’s embryos to Clane Fertility Clinic, Republic of Ireland.
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 section 1 of General Directions 0006, of which there are seven, export is permitted without the need for a Special Direction.
3. The Committee noted that this application for a Special Direction is being made because the centre is unable to export the embryos under the auspices of general directions because they are not able to meet the requirements of section 1(g) of schedule 2 of General Directions 0006: that ‘the remaining term of the relevant storage period for the gametes or embryos, as provided for in section 15 (3) or (4) or by Regulations made under section 15 (5) of the Human Fertilisation and Embryology Act 1990 as amended, and the period for which the gametes and embryos may remain in storage in accordance with the consent(s) of the relevant gamete provider(s), are not less than 6 months from the date on which they are to be exported.’
4. The Committee noted specifically that the embryos may not be exported under General Directions as the embryos are now within six months of the expiry of the statutory storage period permitted.
5. The Committee noted that the embryos were stored in 2004 for a period of 10 years. The centre is of the view that further extension of this period cannot be permitted on the basis of the patient not fulfilling a premature infertility diagnosis.
6. The Committee noted that that the patient couple, currently residing in the Republic of Ireland, now wish to be treated there as they are unable to return to the UK.

7. The Committee noted that this is the couple's last opportunity to be treated prior to the embryos reaching their statutory storage limit. Given the patient's age (49) is it unlikely that a fresh cycle of IVF treatment would be successful.
8. The Committee noted that without treatment with their own embryos, the couple are unable to attempt to carry a full genetic sibling for their existing child.

Decision

9. The Committee concluded that, given that the patients are unable to return to the UK for treatment with these embryos and considering the time limits involved and the fact that the couple wish to create a genetic sibling for their existing child, the stored embryos are essential to the medical treatment services that they wish to receive. As the proposed receiving centre is within the EEA, the Committee was satisfied that a refusal to issue a Special Direction would amount to an unjustified interference with the right in EU Law to obtain medical treatment services abroad.
10. The Committee also concluded that a refusal to issue a Special Direction would be an unjustified interference with the right to respect for private and family life under Article 8 of the ECHR. In particular, the Committee noted the time-sensitive nature of this application.
11. The Committee agreed to issue a Special Direction in this case for Centre 0061 to export two of the patients' embryos to Clane Fertility Clinic, Republic of Ireland and urged the centre to carry out this export as soon as possible.

Signed:

Date: 3 March 2014

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

David Archard (Chair)