

Statutory Approvals Committee - minutes

Centre 0105 (London Women's Clinic) – application for a Special Direction to import embryos from the United States of America

Thursday, 27 October 2016

HFEA, Level 2, 10 Spring Gardens, London, SW1A 2BU

Committee members	Margaret Gilmore (Chair) Rebekah Dundas (Deputy Chair) Anne Lampe	
Members of the Executive	Siobhain Kelly Trent Fisher	Interim Head of Corporate Governance Secretary
Legal Adviser	Graham Miles	Blake Morgan LLP
Observers	Eve Piffaretti	Blake Morgan LLP

Declarations of interest:

- members of the committee declared that they had no conflicts of interest in relation to this item.

The committee had before it:

- 8th edition of the HFEA Code of Practice
- standard licensing and approvals pack for committee members

The following papers were considered by the committee:

- executive summary
- application form
- further information form
- case summary

1. Consideration of application

- 1.1. The committee noted that centre 0105 has applied for a Special Direction to import three embryos from Genetics and IVF institute, Fairfax, USA.
- 1.2. The committee noted that the HFE Act 1990 (as amended) permits the Authority to issue directions to allow the import of gametes or embryos from countries outside the United Kingdom. Furthermore, the committee noted that if a licenced centre meets all requirements set out by section 1 of schedule 3 of General Directions 0006, of which there are ten, import is permitted without the need for Special Directions.
- 1.3. The committee noted that this application for Special Direction is being made because the centre is unable to import the embryos under the auspices of General Directions 0006 because it is not able to meet the requirements of:
 - (e) the person who provided the gametes is (and, in the case of an embryo, both persons who provided the gametes from which the embryo was created, are) identifiable;
 - (h) no money or other benefits has been given or received in respect of the supply of the gametes or embryos unless the money or benefits paid or 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;
- 1.4. The committee agreed that special directions would not be granted routinely, or where the purpose or dominant effect appeared to be to circumvent those requirements set out in General Directions 0006.
- 1.5. The committee noted that the couple seeking treatment have had a previous treatment cycle in the USA resulting in a live birth. The couple have undergone two further treatment cycles which have been unsuccessful. The three embryos are those remaining in storage from the successful treatment cycle and were created using the recipient's partner's sperm and anonymously donated eggs.
- 1.6. The committee noted that the use of the embryos is the couple's only chance of having a genetically related sibling for their existing child as the couple are unable to return to the USA for treatment due to financial difficulties and childcare arrangements for their existing child.
- 1.7. The committee noted that the centre has stated that refusal of the application could be seen as interference with the applicant's right to respect for private and family life under the Human Rights Act 1998.
- 1.8. The committee noted that in 2005 there were amendments to the Human Fertilisation and Embryology Act 1990 by Parliament to remove donor anonymity. This was due the Authority, donor conceived people and the wider public recognising the importance of the rights of donor conceived people to have access to information on their genetic origins.
- 1.9. The committee agreed it is widely recognised, not least by the Authority, the importance of creating full genetic siblings within a family.
- 1.10. The committee noted the Authority places considerable importance on the principles of altruistic donation.

2. Decision

- 2.1. The committee concluded that a refusal to issue Special Directions in this case would interfere with the right to respect for private and family life under Article 8 of the European Convention on Human Rights (ECHR).
- 2.2. The committee weighed the issues of the use of anonymous donor eggs to create the embryos and that the donor had received benefits in excess of that stipulated in General Direction 0001 against the interference with the patient's rights under Article 8 of the ECHR in denying the couple the chance to create a full genetic sibling.
- 2.3. After careful consideration, the committee concluded that, taking all factors into account, refusing this application would be disproportionate and would interfere with the applicant's rights under the Human Rights Act.
- 2.4. The committee therefore agreed to issue a Special Direction in this case for centre 0105 to import three embryos from Genetics and IVF institute, Fairfax, USA.
- 2.5. The committee concluded that the current case involves a highly exceptional set of circumstances. Accordingly, granting this application for Special Directions would not set an undesirable precedent which would undermine the imperative requirements identified.

3. Chair's signature

- 3.1. I confirm this is a true and accurate record of the meeting.

Signature



Name

Margaret Gilmore

Date

15 Nov. 2016

[date of signing]

