

# Statutory Approvals Committee – minutes

## Centre 0199 (CARE London)

### Special Direction application to export embryos to the USA for use in surrogacy

Thursday, 26 September 2019

HFEA, Spey Meeting Room 10 Spring Gardens, London, SW1A 2BU

Committee members	Margaret Gilmore (Chair) Anne Lampe Emma Cave Ruth Wilde	
Members of the Executive	Moya Berry Catherine Burwood	Committee Officer Licensing Manager (Observer)
Legal Adviser	Tom Rider	FieldFisher LLP
Observers	Bernice Ash	Committee Officer

## 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:

- 9th edition of the HFEA Code of Practice
- Standard licensing and approvals pack for committee members
- General Directions 0001 (2015)
- General Directions 0006 (2018)
- General Directions 0013 (2018)
- HFEA Standing Orders (2018)
- Special Directions Decision Tree (2018)

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## The following papers were considered by the committee:

- Executive Summary
  - Special Directions Application Form (redacted)
  - Email confirming destination address of the receiving centre
  - Further information form
  - Email from the receiving centre confirming that they are willing to receive the embryos (redacted).
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### 1. Background

- 1.1.** The Person Responsible (PR) at Centre 0199 (the applicant) has applied for a Special Direction for the export of 5 embryos from CARE London to San Diego Fertility Centre, San Diego, California, United States of America.
- 1.2.** The patient couple have 5 embryos in storage at CARE London. The intended parents (a male same sex couple) wish to export their embryos to California for surrogacy treatment as they have been unable to find a suitable surrogate in the United Kingdom.
- 1.3.** The committee noted commercial surrogacy is permitted in the United States and is well established in California where there are more women who are willing to embark on a surrogacy treatment.
- 1.4.** The committee noted that the embryos, which have been created with sperm from both male partners, were placed in storage in April 2019, and their consented storage period ends in April 2029.
- 1.5.** The committee noted that the egg donor, who is a family friend, is fully aware of the couple's intention to seek treatment abroad and has given her full consent to the embryos being exported to the United States.
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### 2. Consideration of application

#### Application

- 2.1.** The committee considered the application, which included an executive summary, a Special Direction application form and Further Information form.
- 2.2.** The committee noted that the Human Fertilisation and Embryology Act (as amended) permits the Authority to issue directions to allow exports of gametes or embryos to countries outside of the United Kingdom. Furthermore, the committee noted that in relation to the import and export of gametes and embryos outside of the European Economic Area and Gibraltar, movement can be permitted without the need for a Special Direction if the conditions outlined in General Directions 0006 are satisfied.
- 2.3.** The committee noted that this application for a Special Direction is being made as the centre is unable to export the embryos to San Diego Fertility Centre, under General Directions 0006, since the following requirements of Schedule 4 are not met:
- (h) the gametes or embryos cannot be 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.
- 2.4.** The committee noted the information that had been provided to support the Special Direction application. This included an email from San Diego Fertility Centre, to accept 5 embryos for the purpose of establishing a pregnancy intended to produce offspring.

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### 3. Decision

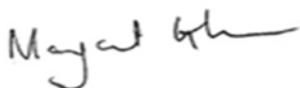
- 3.1.** The committee reflected that to issue a special direction it needs to be satisfied there are exceptional circumstances in which to allow the embryos to be exported when the requirements of schedule 4(1)(h) cannot be met. The committee noted that the embryos had been created and placed in storage in April 2019 and that a letter had been received by CARE London in June 2019 from the Fertility Clinic in San Diego confirming that the patient couple had registered with their clinic. After very careful consideration the committee concluded that at this current time it did not have sufficient evidence of exceptional circumstances to grant a special direction.
- 3.2.** The committee agreed that in order for the application to be progressed, the committee would require full details and supporting evidence of any exceptional circumstances which may justify a special direction being granted, including details and evidence of efforts made, and over what time period, to identify a suitable surrogate in the United Kingdom.
- 3.3.** Taking all of these circumstances into account, the committee concluded that the application should be adjourned pending the provision of further information regarding this special direction to export five embryos for use in surrogacy from CARE London, Park Lorne, 111 Park Road London NW8 7JL United Kingdom (UK) to San Diego Fertility Centre, 11425 El Camino Real, San Diego, California, United States of America (USA).

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### 4. Chairs signature

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

#### Signature



#### Name

Margaret Gilmore

#### Date

28 October 2019