

# Statutory Approvals Committee - minutes

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## Centre 0336 (Simply Fertility)

### Special Direction application to import embryos from Cyprus

Date:	26 August 2021
Venue:	HFEA, 2 <sup>nd</sup> Floor, 2 Redman Place, London E20 1JQ via Microsoft Teams
Committee Members:	Margaret Gilmore (Chair) Emma Cave Anne Lampe Ruth Wilde
Legal Adviser:	Tom Rider - FieldFisher LLP
Members of the Executive:	Moya Berry - Committee Officer Catherine Burwood - Licensing Manager (observer)
Apologies:	No apologies were received for the meeting.
Declarations of Interest:	Tim Child declared a conflict of interest and was not present at the meeting for this item. No other members declared a conflict of interest in relation to this item

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### The Committee had before it:

- HFEA Code of Practice 9th edition
- Standard Licensing and Approvals Pack
- General Direction 0001 (2015)
- General Direction 0006 (GB) (July 2021)
- General Direction 0013 (GB) (December 2020)
- HFEA Standing Orders
- Special Direction Decision Tree - Import Export – (GB) (July 2021)

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### The following papers were considered by the committee:

- Executive summary
  - Redacted application form
  - Further information form
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## 1. Background

- 1.1. The person responsible (PR) at Centre 0336, Simply Fertility, (the applicant) has applied for a Special Direction for the import of four frozen embryos from the IVF Centre Pedieos, Cyprus to Simply Fertility, United Kingdom (UK).
- 1.2. The committee noted the four frozen embryos had been created using donor eggs and the partner sperm. The patient couple intended to return to Cyprus for treatment but have been unable to do so due to the Covid-19 pandemic.
- 1.3. The committee noted the couple have had a number of unsuccessful treatments using their own gametes but due to maternal age, chose to create embryos using donor eggs.

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## 2. Consideration of the Application

- 2.1. The committee considered the application, which included an executive summary, a Special Direction application form, and a 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 import and export of gametes or embryos from/to countries outside of the UK. Furthermore, the committee noted that in relation to the import and export of gametes and embryos outside of Great Britain (GB) movement can be permitted without the need for a Special Direction if the conditions outlined in General Direction 0006 (GB) (version 9) are satisfied.
- 2.3. The committee noted that this application for a Special Direction is being made as the centre is unable to import the four frozen embryos from Cyprus under General Direction 0006 (GB), since the following requirements of Schedule 1 of General Direction 0006 (GB), paragraph 3 cannot be met:
  - (j) the gametes or embryos to be imported meet the UK requirements on screening in accordance with the HFEA's standard licence conditions and the Code of Practice currently in force.
- 2.4. The committee noted the information that had been provided to support the Special Direction application.
- 2.5. In considering the application, the committee had regard to its decision tree and the principles (tests) derived from the decision of the Court of Appeal in R v HFEA ex parte Blood (1997) 2 All ER 687 and rights arising under the Human Rights Act 1998.
- 2.6. **Principle 1**

The committee recognised that the centre is unable to import the embryos, for use in the patient's treatment, under General Direction 0006 (GB) because the following requirements cannot be complied with:

  - (j) the gametes or embryos to be imported meet the UK requirements on screening in accordance with the HFEA's standard licence conditions and the Code of Practice currently in force.

- 2.7.** The committee observed that, except for those cited at paragraph 3 (j), of Schedule 1, the centre has stated that the other relevant requirements of General Direction 0006 (GB) were satisfied.
- 2.8. Principle 2**  
This principle is no longer applicable, following the UK's exit from the European Union.
- 2.9. Principle 3**  
The committee recognised that rights under the European Convention on Human Rights (ECHR) continue to apply notwithstanding the UK's exit from the European Union. Based on the patient's particular circumstances, the committee accepted that a refusal to allow their embryos to be imported would amount to an interference with their rights to a private and family life under Article 8 and to found a family under Article 12 of the ECHR and that any refusal to grant the application would need to be justified and proportionate. However, the committee noted that the couple had stated in the application that they had the full intention to travel to Cyprus to continue their treatment but had been unable to do so due to COVID-19 restrictions. The committee noted that this is no longer relevant as COVID restrictions to Cyprus have been lifted and the couple are now free to travel. The committee, therefore, agreed that a refusal to allow the embryos to be imported in these circumstances does not amount to an interference with their rights as the couple are now free to travel to Cyprus to continue their treatment as originally planned.
- 2.10. Principle 4 and 5**  
The committee agreed that these principles do not apply as there is no pressing social need for a special direction to be granted as the couple are free to travel to Cyprus to continue their treatment.
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## **3. Decision**

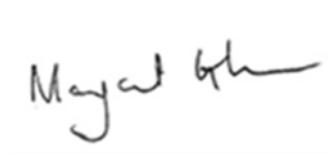
- 3.1.** The committee noted that the patient couple have had a number of unsuccessful treatments using their own gametes and due to advanced maternal age, the couple chose to create embryos using donor eggs.
- 3.2.** The committee also considered the fact that it had been the couple's full intention to travel freely between the UK and Cyprus for multiple transfers if required once COVID restrictions had been lifted. The committee note that it is now possible for the couple to travel to continue their fertility treatment as planned.
- 3.3.** Taking all these circumstances into account, and after careful consideration, the committee concluded that the application should be refused regarding the Special Direction to import four embryos for use in treatment, from IVF Centre Pedieos, Anemomylos Bld, 8 Vyronos & Karaoli St, 1095 Nicosia, Cyprus to Simply Fertility, Baddow Hospital, West Hanningfield Road, Great Baddow, Essex, Chelmsford, CM2 8HN, United Kingdom.

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## 4. Chair's signature

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

Signature

A handwritten signature in black ink, appearing to read "Margaret Gilmore", enclosed in a thin black rectangular border.

Name

Margaret Gilmore

Date

21 September 2021