

Submission form

Please provide your contact details below.

Name:	Iain Middleton
If this submission is made on behalf of an organisation, please name the organisation:	Humanist Society of New Zealand (Inc.)
Please provide a brief description of the organisation if applicable:	The Humanist Society of New Zealand is a society interested in ethics, Human Rights, education, and science, representing non-theist people in New Zealand.
Address/email:	
Interest in this topic (eg, user of fertility services, health professional, member of the public):	The Humanist Society of New Zealand (HSNZ) has a long standing interest in Human Rights and Ethical issues including Assisted Human Reproduction.

We will place all submissions on ACART's website, except where we are asked that submissions be withheld in full or part for reasons of confidentiality. We will remove contact information from all submissions.

☐ I **request** that my submission be withheld in full or part from publication on ACART's website (if you wish a part to be withheld, please clearly indicate which part).

Please note that all submissions may be requested by any member of the public under the Official Information Act 1982 (the Act). If there is any part of your submission that you consider should be properly withheld under the Act, please make this clear in your submission, noting the reasons.

If information from your submission is requested under the Act, the Ministry of Health (the Ministry) will release your submission to the person who requested it. The Ministry will remove your name and/or contact details from the submission if you check one or both of the following boxes. Where a submission is made on behalf of an organisation, the Ministry will not remove the name of the organisation.

☐ I **do not** give permission for my name to be released to persons under the Official Information Act 1982.

☒ I **do not** give permission for my contact details to be released to persons under the Official Information Act 1982.

We will acknowledge all submissions. A summary of submissions will be sent to those who request a copy. The summary will include the names of everyone who made a submission, except where individuals have asked for personal details to be withheld.

Do you wish to receive a copy of the summary of submissions?

☒ Yes ☐ No

Questions about the proposed amendments to the guidelines

Question 1

Do you agree with ACART's conclusions that:

- the surrogacy guidelines currently discriminate on the basis of sex and sexual orientation, and
- the discrimination is not justified in light of the principles of the Human Assisted Reproductive Technology Act 2004?

Yes ☒ No ☐

Please give reasons for your views.

The Humanist Society of New Zealand agrees that the present guidelines are discriminatory and agrees with ACART's finding that research shows that all male or all female couples and single people are capable of successfully raising children.

Question 2

Do you agree with ACART's view that surrogacy should be used only where there is a need, and not for convenience?

Yes ☐ No ☒

Please give reasons for your views.

The Humanist Society of New Zealand considers that there is no need to change the present guidelines regarding this issue and that the guidelines may already be too restrictive. HSNZ has no fundamental objection to surrogacy for reasons other than medical reasons.

The Humanist Society considers that there are some very compelling reasons that establish need other than strict medical reasons for the use of surrogacy. ACART has not provided a robust argument that surrogacy should be reserved for cases where there is a medical reason only and the insertion of this restrictive clause at this stage may create an entrenched position that is counterproductive in the long term.

HSNZ considers that restricting surrogacy to cases where there is specifically medical need will create a new area of discrimination where single males and male couples will always be able to use a surrogate and never be inconvenienced by a pregnancy while heterosexual couples, lesbian couples, and single women will be inconvenienced by a pregnancy unless they can prove a medical reason for the woman, or both women in the case of a lesbian couple. This is discrimination against women.

See the answer to Question 7 for more details.

Question 3

Do you have any other comments on ACART's proposed amendments to the *Guidelines on Surrogacy Arrangements involving Providers of Fertility Services*?

The Humanist Society of New Zealand notes that ACART's proposals under Question 3 & 4 below amount to a relaxation of the guidelines regarding surrogacy and the donation of eggs and sperm, while Question 2 amounts to a tightening of the guidelines.

HSNZ notes that the consultation document (para. 45 on page 12) refers to couples who travel to other countries in order to make use of surrogacy arrangements and suggests that there is a need to encourage intending parents to enter into safe surrogacy arrangements in New Zealand.

In contrast to para. 45, the change proposed under question 2 is likely to discourage surrogacy arrangements in New Zealand and lead to the continued use of surrogacy arrangements in other countries.

The Humanist Society of New Zealand supports safe surrogacy arrangements within New Zealand and considers that the guidelines should encourage this to reduce the demand for surrogacy in other countries.

Question 4

Do you agree with ACART's proposal that single men and male couples applying to ECART to enter a surrogacy arrangement should also be able to apply to use eggs donated by a family member?

Yes ☒ No ☐

Please give reasons for your views.

The Humanist Society of New Zealand considers that it is desirable that the genetic or other relationship between a parent and child be as close as possible and that this is in the best interest of the child.

In the case of a male couple a desirable option would be to use the sperm of the intending father and an egg donated by a family member, such as a sister, of the intending father's partner thus giving both partners a close genetic connection to the child.

Care needs to be taken, however, to ensure that the sperm and egg do not have a genetic relationship that is too close, as outlined in paragraph 17 of the consultation document and the provisions of the *Guidelines on Donation of Eggs or Sperm between Certain Family Members*.

Question 5

Do you agree with ACART's proposal that single women and lesbian couples should be able to apply to ECART to use sperm donated by a family member without needing a medical justification?

Yes ☒ No ☐

Please give reasons for your views.

The Humanist Society of New Zealand considers that it is desirable that the genetic or other relationship between a parent and child be as close as possible and that this is in the best interest of the child.

In the case of a female couple a desirable option would be to use the egg of the intending mother and sperm donated by a family member, such as a brother, of the intending mother's partner thus giving both partners a close genetic connection to the child.

Care needs to be taken, however, to ensure that the sperm and egg do not have a genetic relationship that is too close, as outlined in paragraph 17 of the consultation document and the provisions of the *Guidelines on Donation of Eggs or Sperm between Certain Family Members*.

HSNZ sees no need to establish a medical justification for such a donation.

Question 6

Do you agree with ACART's view that the use of eggs or sperm donated by a family member should be possible only where intending parents do not have their own eggs or sperm, or if they do, that there is a medical reason for them not to use their own eggs or sperm?

Yes ☐ No ☒

Please give reasons for your views.

The Humanist Society of New Zealand agrees with ACART to the extent that it is desirable that the genetic or other relationship between a parent and child be as close as possible and that this is in the best interest of the child. For this reason it is desirable that intending parents make use of their own eggs or sperm as a first option, or if there is a medical reason for them not to use their own eggs or sperm, eggs or sperm donated by a family member is a desirable second option.

HSNZ, however, considers that the interest of the child should be paramount and that there may be good reasons other than strictly medical reasons for the use of donated eggs or sperm and consequently considers that the requirement that intending parents must use their own eggs or sperm when possible should not be absolute.

Question 7

Do you have any other comments or suggestions about either the proposed amendments to the guidelines or the associated discussion?

The Humanist Society of New Zealand:

1. supports the extensions to the guidelines to remove discrimination but is concerned that in doing so another area of **discrimination** is being created as outlined in more detail below,
2. considers that the interest of the child should be paramount and not just "important" in all questions of Human Assisted Reproductive Technology,
3. considers that a child produced by any form of Human Assisted Reproductive Technology should be allowed to know its genetic origins,
4. considers that a surrogacy arrangement where there is a genetic link between the commissioning parents and the child is likely to have a higher rate of success than the adoption of an unrelated child,
5. considers that it is desirable to encourage safe surrogacy arrangements within New Zealand to reduce the need for New Zealand couples to make use of surrogacy in other countries,
6. considers that surrogacy can be of benefit to those seeking a child and is concerned that ACART may be making **prejudicial judgements** when in para. 28 on page 9 it is suggested, without quoting evidence, that "a surrogate may change her mind and decide not to relinquish a child", and that "Surrogates bear the ... risk that intending parents may change their mind and the emotional impact of relinquishing a child", and "A child may become the subject of a dispute if the relationship between parties breaks down", as genuine risks and reasons for restricting surrogacy.

Medical risks are well known but the assertions regarding psychological risks made by ACART without citation are in contrast to peer reviewed studies and other evidence that show such risks are very rare and that in the vast majority of cases the women who provide gestational surrogacy and the intending parents have very positive outcomes and responses to the experience,

Continued on next page:

Answer to Question 7 continued.

For example: Vasanti Jadva, Clare Murray, Emma Lycett, Fiona MacCallum and Susan Golombok, "Surrogacy: the experiences of surrogate mothers", 2003, City University, London, U. K., conclude:

"The findings of the present investigation suggest that surrogacy has generally been a positive experience for those surrogate mothers interviewed, and fail to lend support to claims regarding the potentially negative outcomes of surrogacy for surrogate mothers. For example, none of the women in the present study had any doubts about their decision to hand over the child to the commissioning couple. In line with previous findings (Ragoné, 1994) which showed that surrogate mothers tended to distance themselves from the fetus, the results of the present study indicated that surrogate mothers may view the child they are carrying as not theirs, thereby facilitating relinquishment.

Overall, surrogacy appears to be a positive experience for surrogate mothers. Women who decide to embark upon surrogacy often have completed a family of their own and feel they wish to help a couple who would not otherwise be able to become parents. The present study lends little support to the commonly held expectation that surrogate mothers will experience psychological problems following the birth of the child. Instead, surrogate mothers often reported a feeling of self-worth. In addition, surrogate mothers generally reported positive experiences with the commissioning couple, and many maintained contact with them and the child."

While there are numerous articles that outline the psychological risks associated with surrogacy these all appear to be speculative and not based on research or evidence.

ACART's conclusion that "surrogacy arrangements carry substantial [non-medical] risks" therefore appears to be unsafe as it appears to be dated and based on speculation, myth, or anti-surrogacy propaganda, rather than real evidence, and appears to be an overstatement or exaggeration of the non-medical risks. There are known medical risks to the surrogate and child but when both surrogates and intending parents are properly screened and counselled the benefits are very positive for all concerned and outweigh the limited non-medical risks.

7. The Humanist Society of New Zealand is concerned that a **new area of discrimination** against women has been created by the proposed change that allows a single male or male couples to use surrogates whenever they seek a child while women can only use a surrogate if they can establish a medical justification. This discrimination could lead to future legal action.

The Humanist Society considers that in some cases it may be in the best interests of the children for the intending mother to make use of a surrogate for reasons other than strictly medical reasons and that more flexibility is required rather than less.

The Humanist Society of New Zealand notes that "need" and "convenience" are not well defined, and considers that there are non-medical reasons and cases of need where surrogacy may be justified that might include matters of national or critical importance and the financial wellbeing of a family. Many women are the prime or sole income earner of a family, and attitudes based on the assumption that a woman should always be the one to be at home bearing the children should be questioned.

One example of discrimination might be:

Two ballet dancers working at a high professional level and wanting to start a family.

The first dancer is male and has a male partner. He is immediately given approval to use a surrogate.

The second dancer is female and either in a heterosexual relationship or has a female partner who is incapable of carrying and giving birth to a child. She is not allowed to use a surrogate unless she can prove that she has a medical need. Without a medical justification, she has to decide between continuing her career with the possibility of never having children of her own, or ending her career in order to have a child with the prospect of being unable to continue her career afterward, even when she has a partner willing to stay at home to look after the child.

There may be many more examples.

The Humanist Society considers that this discrimination should be corrected at this stage rather than waiting for a legal challenge at a future date.

8. In general, the Humanist Society of New Zealand considers that guidelines should be guidelines rather than absolute rules and that flexibility should be allowed so that intending couples can exercise choice.