

Submission form

Please provide your contact details below.

Name:	Benjamin Molineaux BHSc
If this submission is made on behalf of an organisation, please name the organisation:	
Please provide a brief description of the organisation if applicable:	
Address/email:	
Interest in this topic (eg, user of fertility services, health professional, member of the public):	Member of the Public

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.

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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.

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

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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?

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Yes

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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

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No

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Please give reasons for your views.

The Universal Declaration on Bioethics and Human Rights (2005), specifically Article 11, maintains that "No individual or group should be discriminated against or stigmatized on any grounds, in violation of human dignity, human rights and fundamental freedoms". The current prohibition on homosexual male couples accessing surrogacy services is both discriminatory, and stigmatising. It is discriminatory because services are available to heterosexual couples, and there is no evidence that homosexual couples cannot meet the same standard required for surrogacy arrangements to be entered into.

In addition, as ACART is carrying out functions conferred to it under legislation (HART, 2004) by the New Zealand Government, the Human Rights Act (1993) would appear to prevent discrimination by people or organisations acting under legislation to discriminate on the grounds of "sexual orientation, which means a heterosexual, homosexual, lesbian, or bisexual orientation" (Section 21, 1,m)

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

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No

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Please give reasons for your views.

Providing all parties are fully informed consenting adults, I see no reason why a couple or individual person seeking surrogacy services should be required to do so only if there is a 'need', rather than a 'want'.

The issue becomes more apparent for single males seeking surrogacy services, because this then sets up a discriminatory dynamic for single women who would be required to prove they are unable to become pregnant or maintain a safe pregnancy, and 'need' surrogacy services, where as their male counterparts due to biology, only need to state the obvious.

Question 3

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

No.

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.

Yes, provided the exclusions in paragraph 17 of the consultation document continue to apply.

17. ECART must not approve an application for donation where a resulting child would be formed from eggs and sperm from father and daughter, mother and son, brother and sister, grandfather and granddaughter, or grandmother and grandson.

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.

Yes, provided the exclusions in paragraph 17 of the consultation document continue to apply.

17. ECART must not approve an application for donation where a resulting child would be formed from eggs and sperm from father and daughter, mother and son, brother and sister, grandfather and granddaughter, or grandmother and grandson.

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.

Eggs or sperm should be sought from the parents first, and only if there is a medically sound reason, look elsewhere. Even in surrogacy of convenience (supported in Question 2), the first preference should be for parental-child biological links.

Question 7

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

No.