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The ACART Secretariat

**PROPOSED AMENDMENTS TO GUIDELINES ON SURROGACY AND DONATIONS
OF EGGS OR SPERM**

I attach the Families Commission's submission to the Advisory Committee on Assisted Reproductive Technology on their proposed amendments to the *Guidelines on Surrogacy Arrangements Involving Providers of Fertility Services* and the *Guidelines on Donation of Eggs or Sperm between Certain Family Members*.

If you have any queries, please contact Francis Luketina, Principal Analyst, on 04 9317082.

Yours sincerely

Paul J Curry
Chief Executive

SUBMISSION BY THE FAMILIES COMMISSION

to the

**THE ADVISORY COMMITTEE ON ASSISTED
REPRODUCTIVE TECHNOLOGY**

on the

**PROPOSED AMENDMENTS TO GUIDELINES ON
SURROGACY AND DONATIONS OF EGGS OR SPERM**

7 SEPTEMBER 2012

Introduction

The Families Commission welcomes the opportunity to comment on your proposed amendments to the *Guidelines on Surrogacy Arrangements Involving Providers of Fertility Services* and the *Guidelines on Donation of Eggs or Sperm between Certain Family Members*.

The Families Commission can contribute our knowledge about families and whānau to your consultations on reproductive technology. It was on this basis that we have commented on a number of your earlier proposals to amend guidelines.ⁱ

This submission focuses first on evidence about the outcomes for children raised by single men or male couples. It then places this discussion in a wider context.

This submission will show that the evidence suggests that the gender, number, and sexual orientation of parents is largely irrelevant to outcomes for children. What is important is that every child has a loving and competent parent. We note, however, that there is a paucity of long-term research on the outcomes of children raised exclusively by openly homosexual men, and on outcomes of children born following assisted reproductive technologies.

The Advisory Committee is faced with a fraught ethical dilemma – should it seek to change the guidelines to end discrimination against single men and male couples, by allowing them to have children via assisted reproductive technology, when successful outcomes for the children are likely, but not certain. As well as the research evidence, the Advisory Committee will need to take into account whether and to what extent society would agree with these proposals. It should also have regard to the level of assurance provided by its vetting and counselling procedures for people applying to use these technologies.

Evidence on Outcomes for Children Raised by Single Men or Male Couples

The Families Commission has long held the view that family form is largely irrelevant to outcomes for children. Children are given the best start in life if they have at least one loving and competent parent. We based this view on evidence such as that from the longitudinal Christchurch Health and Development Study.ⁱⁱ This evidence, however, relates to single parenthood per se, rather than parenting by single men or male couples. Accordingly, we have reviewed the evidence including in your consultation document, and that produced recently in a review carried out by the Australian Psychological Society.ⁱⁱⁱ

According to the Australian Psychological Society, little research has been done comparing single homosexual men or male couple parents, with other parents. Completed research generally relates to homosexual men raising children after the breakup of a male-female relationship.^{iv} Despite the use of the label 'gay and lesbian parents' throughout the Society's review, on close inspection it is apparent that most of the research related to lesbian parents. Further, the review presents no evidence of substantive research relating to single men or male couples who have parented children born with the assistance of reproductive technology. Nevertheless, the conclusion in this report - that all the research evidence points to the gender and number of parents being unimportant compared with the style of parenting - strongly suggests that

homosexual men and male couples would be as capable as other parents of successfully raising children.

The Society's review includes an Australian study that has found that the children of lesbian parents are significantly teased or bullied because of the sexual orientation of their parents. Other studies have found, however, that the children of lesbian parents and children of other parents experience the same total amount of teasing or bullying.^v

Your consultation paper provides an overview of studies with some bearing on parenting by single fathers and male couples. As with the studies examined in the Australian review, most of these studies appear to have used methodologies that make them generally relevant, but not specifically relevant, to single fathers and male couples. Mostly, they do not appear to have reported separately on male and female parents. Further, they have small samples, or samples where the children were raised by homosexual fathers after separation from the child's mother, or the studies have used a process for obtaining the sample which would have produced unreliable results. We have looked closely at the studies that seem the most significant in terms of sample size and methodology – there are two of them. Our analysis of the results of these studies follows.

The first of these two studies is reported in the 2009 article "*An evaluation of gay/lesbian and heterosexual adoption*". It reports on a review of relevant literature, and carries out new research looking at the outcomes for the adopted children.^{vi} It again notes that there is limited research, but what does exist supports the repeal of laws banning gay and lesbian adoption. Their literature review does not distinguish between adoption by homosexual male and lesbian parents, and no mention is made of the numbers of homosexual men included in the samples. This limitation applies also to their own original research. Further, because of their sampling methods, the homosexual male and lesbian adoptive parents are not properly comparable to the heterosexual adoptive parents.

You have also listed the 2010 research review '*How does gender of parents matter?*'.^{vii} The authors conclude that there is insufficient research on parenting by two men to reach any conclusions about outcomes for children. They state, however, that all other research on family forms suggests that the gender of parents in a two parent family does not matter. They also point out that:

"A vast body of research indicates that, other things being equal (which they rarely are), two compatible parents provide advantages for children over single parents."

In particular, the authors cite research that shows that children raised by single fathers on average do not do as well as other children. As they acknowledge, this finding could be unreliable because the single fathers may have been assigned custody of the children after the children had exhibited behavioural problems while in their mothers' care.^{viii}

Given the relevance of this finding to whether assisted reproductive technology should be used to allow single males to have children, we have revisited the findings from the Christchurch Health and Development Study to see whether they throw light on whether single parents in general can raise children as well as two parents. This study has the benefit of involving a large sample of New Zealand parents. Here is what Fergusson, et al., had to say about the subject:

"In agreement with much previous research into the effects of single parenthood on children, increasing exposure to a single-parent family in childhood was

associated with increasing risks of later anxiety, poorer educational and economic outcomes, and criminal offending. However, these associations were rather weak These results imply that, typically, variation in exposure to single parenthood accounted for about 1% of the variation in outcomes in adulthood. These statistics reflected the facts that ... most of those exposed to single parenthood did not develop later difficulties....^{ix}

We emphasise that these findings are about single parent-hood in general, rather than single parents raising children born with the assistance of reproductive technologies.

In other words, single parenthood is a minor disadvantage for children, at least in New Zealand. We note, however, that this research did not report separately on single fathers and single mothers. We have located further research on outcomes for children raised by single fathers.

Research in the United States found that there are only slight differences in the way that single fathers and single mothers parent pre-school children.^x This research used a sufficiently large sample to have some confidence in the results. Further, the authors reviewed an earlier large-sample study and found that the children raised by single fathers did as well as children of single mothers in terms of behaviour, self-esteem, and relationships.

The presence of these two studies suggests that single fathers can generally raise children as successfully as other families, but we would prefer there to be a larger research base.

There is one further point that should be made about the evidence. Very little of it relates to children born through the assistance of reproductive technologies. Almost all of the research relates to children raised by single fathers or by homosexual men where the children were originally born to a male-female couple. On average, the circumstances of these parents, and the children, would be quite different to children born with the assistance of reproductive technologies. These children are conceived only after a deliberative process, vetting, counselling, and the application of medical procedures. These parents have to be very sure that they want a child. This means the research evidence is not wholly relevant to these parents and their children. That these parents only have children after considerable thought and overcoming administrative and medical obstacles is a good start to parenthood that may have longer-term implications for the children's future.

In summary, research evidence shows that single parents in general, and single fathers in particular, are as capable as male-female couples of successfully raising children. There is insufficient specific evidence to show that single men or male couples would do as well as other families when raising children born with through assisted reproductive technologies, but more general evidence suggests that these children would not be disadvantaged.

The Guidelines enhance the likelihood of successful outcomes because they require that people using assisted reproductive technology be vetted and counselled. Presumably, a single man or a male couple would be allowed to use assisted reproductive technology only where everything points to them being loving and competent parents, able to provide for the children, and living in stable circumstances.

Other Considerations

You have proposed these changes because it has been determined that the Guidelines discriminate against single men and male couples. The rights of any future child born as a result of assisted reproductive technologies must have precedence over that of the parents. The evidence that we summarised above indicates that these children are likely to be raised by a loving and competent parent or parents. Nevertheless, there is still some uncertainty about the outcomes for these children, because we do not have sufficient evidence specific to children produced via reproductive technologies and raised by single men or male couples.

The Families Commission is aware that there are many people who would have serious misgivings about these proposed changes. The debate about the Marriage (Definitions of Marriage) Amendment Bill has made this clear. Although the subject matter is different (marriage of male couples or female couples), the strong opposition to the Bill from most of the established churches and from the Conservative Party indicates that many people would oppose your proposals, if they were aware of them.

Many people hold the view that a child needs a mother. The Families Commission is unsure how widespread this view is. While there are examples of laws and regulations successfully moving ahead of accepted social mores, often it is considered to be unwise. Accordingly, we suggest that you approach sanctioning single male and male couple parenthood through the use of assisted reproductive technology cautiously, particularly given the absence of specific research about this.

Conclusions

The complaint that the Assisted Reproductive Technology Guidelines discriminate against single men and male couples presents society with a fraught ethical dilemma. The Committee will need to weigh up that the evidence suggests, but does not prove, that these men will love and successfully raise children produced by these technologies as well as other parents, providing there are appropriate safeguards. The Committee will also need to bear in mind to what extent society would support or oppose the proposals. The proposed changes might be leading societal change, rather than reflecting it.

Endnotes

ⁱ We have previously made submissions on *Use of Gametes and Embryos in Human Reproductive Research* (2007); *Advice on Aspects of Assisted Reproductive Technology* (2007); *Use of Frozen Eggs in Fertility Treatment* (2008); *Guidelines for Preimplantation Genetic Diagnosis with Human Leukocyte Antigen Tissue Typing* (2008).

ⁱⁱ Fergusson, D., Bowden, J., and Horwood, J., 2007, 'Exposure to Single Parenthood in Childhood and Later Mental Health, Educational, Economic, and Criminal Behavior Outcomes', *Archives of General Psychiatry*, September 2007, Vol. 64., No. 9, pages 1089-1095.

ⁱⁱⁱ Short, E., Riggs, D.W., Perlesz, A., Brown, R., and Kane, G. 2007, *Lesbian, Gay, Bisexual and Transgender (LGBT) Parented Families*, Australian Psychological Society.
<http://www.psychology.org.au/Assets/Files/LGBT-Families-Lit-Review.pdf>

^{iv} Short, et al., page 10.

^v Sort, et al., pages 22-23.

^{vi} Averett P., Nalavany B., Ryan S., *Adoption Quarterly* 12(3-4):129-51.

^{vii} Biblarz, T.J. and Stacy J., 2010, *Journal of Marriage and Family* 72(1): 3-22.

^{viii} Hemovich, V, Crano W.D., 2009, 'Family structure and adolescent drug use: an exploration of single-parent families', *Substance Use and Misuse* 44(14): 2099-113..

^{ix} Fergusson, et all, page 1094.

^x Dufur, M.J., Howell, N.C., Downey, D.B., Ainsworth, J.W., and Lapray, A.J., 2010, Sex Differences in Parenting Behaviors in Single-Mother and Single-Father Households, *Journal of Marriage and Family* 72 (October 2010): 1092 – 1106