



**Advisory Committee on  
Assisted Reproductive Technology**

**Guidelines on  
Surrogacy Arrangements  
involving  
Providers of Fertility Services**

**Issued to the Ethics Committee on Assisted Reproductive Technology on  
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## **Guidance on terms used**

In these guidelines, unless the context indicates otherwise, words should be interpreted in accordance with definitions given in the Human Assisted Reproductive Technology Act 2004 and the Human Assisted Reproductive Technology Order 2005.

## **Guidelines**

1. When considering an application for a surrogacy arrangement involving a provider of fertility services, ECART must be guided by the principles of the Human Assisted Reproductive Technology Act 2004:

### **Section 4: Principles**

All persons exercising powers or performing functions under this Act must be guided by each of the following principles that is relevant to the particular power or function:

- (a) the health and well-being of children born as a result of the performance of an assisted reproductive procedure or an established procedure should be an important consideration in all decisions about that procedure:
- (b) the human health, safety, and dignity of present and future generations should be preserved and promoted:
- (c) while all persons are affected by assisted reproductive procedures and established procedures, women, more than men, are directly and significantly affected by their application, and the health and well-being of women must be protected in the use of these procedures:
- (d) no assisted reproductive procedure should be performed on an individual and no human reproductive research should be conducted on an individual unless the individual has made an informed choice and given informed consent:
- (e) donor offspring should be made aware of their genetic origins and be able to access information about those origins:
- (f) the needs, values, and beliefs of Māori should be considered and treated with respect:
- (g) the different ethical, spiritual, and cultural perspectives in society should be considered and treated with respect.

2. When considering an application for a surrogacy arrangement involving a provider of fertility services:
  - (a) ECART must determine that:
    - (i) At least one of the intending parents will be a genetic parent of any resulting child.
    - (ii) The intending mother has:
      - A medical condition that prevents pregnancy or makes pregnancy potentially damaging to her and/or any resulting child; or
      - A medical diagnosis of unexplained infertility that has not responded to other treatments.
    - (iii) There has been discussion, understanding, and declared intentions between the parties about the day-to-day care, guardianship, and adoption of any resulting child, and any ongoing contact.
    - (iv) Each party has received independent medical advice.
    - (v) Each party has received independent legal advice.
    - (vi) Each party has received counselling in accordance with the Code of Practice for Assisted Reproductive Technology Units or, when it comes into effect, the current Fertility Services Standard.
  - (b) ECART must take into account all relevant factors, including:
    - (i) Whether the intending surrogate has completed her family.
    - (ii) Whether the relationship between the intending parents and the intending surrogate safeguards the wellbeing of all parties and especially any resulting child.
    - (iii) Whether legal reports indicate that the parties clearly understand the legal issues associated with surrogacy arrangements.
    - (iv) Whether counselling has:
      - Included implications counselling for all parties.
      - Included joint counselling for all parties.
      - Been culturally appropriate.
      - Provided for whānau / extended family involvement.
      - Provided for the inclusion of any children of the parties.
    - (v) Whether counselling will be accessible to all parties before and after pregnancy is achieved.
    - (vi) Whether the residency of the parties safeguards the wellbeing of all parties and especially any resulting child.