

## **INFORMATION ON THE HART ACT (2004)**

### **Introduction**

This information sheet aims to explain important parts of the Human Assisted Reproductive Technology (HART) Act (2004) that affects all people involved in egg or sperm donation. Please take time to read it and if you have any questions or would like further information one of our designated staff will be happy to assist you.

Although the Act was passed in November 2004 the section that applies to the donation of eggs and sperm (“gametes”) takes effect on 22 August 2005.

The Registry of Births, Deaths and Marriages and the Registrar-General of Births, Deaths and Marriages will be referred to in this information sheet as the “Registry” and “Registrar” respectively.

The HART Act treats people born from donor gametes as independent of their parents/guardians upon reaching 18 years of age. However, the Family Court may confer certain rights on people born from donor gametes aged 16 or 17 years (as described in section 65 of the Act) to enable them to be treated as being aged 18 years or more.

Throughout this sheet the terms “identifying information” and “non-identifying information” are used. Identifying information in relation to a person means that person’s name, address, or contact details; and includes information that is likely to enable another person to ascertain that person’s name, address, or contact details (as defined in Section 5 of the Act). Non-identifying information is all information that is not identifying information.

### **Recipients of egg or sperm donation**

Parents/Guardians whose babies are conceived from donations made on or after 22 August 2005 must provide Fertility Associates with the name, gender, date and place of birth within two (2) weeks of the birth. Fertility Associates must hold this information for 50 years after the birth and send a copy promptly after the birth to the Registry, which keeps it indefinitely.

Parents/Guardians may request information (including identifying information) from Fertility Associates about the donor, which we are required to provide under the HART Act, when their children are aged under 18 years.

Once a person conceived from donor gametes is aged 18 years or more the parents/guardians are no longer able to request information about the donor – this is up to that person themselves to pursue.

If other people have been conceived from the same donor then parents/guardians may request information (including identifying information) about those people if they are aged 18 years or over and have consented to information being released. When those people are aged under 18 years of age their parents/guardians may consent to information being released.

Fertility Associates strongly recommends that people have a consultation with one of the clinics' counsellors before exchanging information. Counselling helps people consider the implications of exchanging information and gives them time to think about 'what if' scenarios. Our counsellors can also answer questions on how others have approached this issue and about what seems to work best. Our experience is that a positive outcome is greatly enhanced when people are well prepared and have made plans.

### **Donors**

The HART Act determines that donors who make any donation on or after 22 August 2005 are to be identifiable. This enables a person conceived from donor gametes to gain information about his or her genetic origins, and provides the potential for contact between the donor and the person conceived from donated gametes and/or their parents/guardians.

Fertility Associates does and is required to maintain a record of specific details about donors, such as the donor's name, address, physical description, significant family medical history and family details (as described in section 47(1) of the HART Act). If a baby is born from donated gametes then a copy of the information is also sent by Fertility Associates to the Registrar who stores it indefinitely. As some of this information (e.g. address, medical history) may change over time the donor is asked to provide Fertility Associates with updated information.

A few donors will make donations **both before and after** 22 August 2005. In such cases, people conceived from **donations prior** to 22 August 2005 are **not** covered by the HART Act. However, when people conceived from **donations made after** 22 August 2005 request identifying information about their donor(s), Fertility Associates is required under the HART Act to disclose any information held about the donor(s) to the donor offspring and/or their guardians.

The HART Act requires Fertility Associates to tell donors, upon request, whether any people have been born from their donation (to the best of our knowledge) and, if so, their genders. Fertility Associates can supply more information to donors about the people conceived from donor gametes with, *and only with*, those people's consent when aged 18 years and over. Parents/guardians of people conceived from donor gametes aged under 18 years may give their consent. Fertility Associates may be able to more proactive in seeing whether people conceived with donor gametes would want to release information, should a donor initiate an enquiry. This will depend on many factors, which we would handle on a case-by-case basis.

Fertility Associates strongly recommends that the parties undertake counselling (separately) before information is exchanged. Our experience with linking donors and people conceived from donor gametes is that a positive outcome is greatly enhanced with counselling.

### **People conceived from donor gametes**

People conceived from gametes donated on or after 22 August 2005 may request information about their donor (including his/her identity) upon reaching 18 years, from either Fertility Associates or the Registry. In special circumstances information may be released to people aged 16 or 17 years, upon an order being obtained from the Family Court, when it has been decided that this is in the best interests of the child. Parents/Guardians of people conceived from donor gametes (who are aged under 18 years) may also request this information from either Fertility Associates or the Registry. Parents/Guardians are no longer entitled to request information about the donor once people born from donor gametes are aged 18 years or older – this is now up to the person conceived from donor gametes.

Fertility Associates must not disclose any information about people conceived from donor gametes to the donor without their written consent.

People conceived from donor gametes may consent to having identifying information disclosed to another person conceived from the same donor, if this person is aged 18 years or over (or by their guardian, if aged under 18 years).

For a small number of families the older child in the family may have been conceived from gametes donated **prior** to 22 August 2005, while the younger child may have been conceived from gametes donated **after** 22 August 2005. This means that the donor's identifying details are automatically available to the younger child from Fertility Associates and/or the Registry of Births, Deaths and Marriages under the HART Act. The donor's identifying details are available to the older child from Fertility Associates and/or the Registry of Births, Deaths and Marriages with the donor's written consent. Parents/guardians of children conceived from donor gametes may request this information where the child is aged under 18 years.

### **People conceived from gametes from the same donor**

The HART Act gives provision for contact between people conceived from the same donor, where written consent has been given.

These people (or their parents/guardians, when they are aged under 18 years) may request to have the **existence** of other people conceived from the same donor confirmed. Fertility Associates and/or the Registry are required to provide this information under the HART Act. The person conceived from donor gametes (or their parents/guardians, if they are aged under 18 years) may consent in writing to **identifying information** being released to another person conceived from the same donor (or their parents/guardians, if they are aged under 18 years). They may also vary or withdraw their consent in writing.

Fertility Associates strongly recommends that the parties undertake a counselling session (separately) prior to information being shared. Our experience with linking families and donors is that a positive outcome is greatly enhanced with counselling.

### **Fees**

There is a fee for enquiring whether Fertility Associates holds information about a party, and a separate fee for providing information about a party. However, there is no fee for updating your own information.

Counselling fees may apply where counselling sessions are undertaken.

## Conclusion

- Donors will be identifiable to people conceived from their gametes donated (and their parents/guardians) under the HART Act, for people conceived from donations made on or after 22 August 2005.
- Donors will **not** be automatically identifiable under the HART Act for donations made before 22 August 2005.
- The voluntary register is available to donors and people conceived from donor gametes donated before 22 August 2005 who consent to releasing information.
- Fertility Associates is required to provide the person conceived from donor gametes and/or their parents/guardians with identifying information about the donor where this is requested, for people conceived from donated gametes on or after 22 August 2005.
- Once people conceived from donor gametes are aged 18 years they may consent to contact by their donor(s).
- Under certain circumstances the Family Court may confer certain rights on people born from donor gametes who are aged 16 or 17 years to enable them to be treated as being aged 18 years or more.
- People conceived from donor gametes and/or their parents/guardians may agree to identifying information being released to people conceived from the same donor.
- Fertility Associates strongly recommends counselling for each party prior to making direct contact.

Should you require further information about the HART Act, please contact a designated staff member at Fertility Associates at your convenience.

## References

Registry of Births, Deaths and Marriages

Locations: Auckland, Manukau, Wellington, Christchurch.

Ph: 0800 22 52 52

Email: [bdm.nz@dia.govt.nz](mailto:bdm.nz@dia.govt.nz)

Internet: [www.bdm.govt.nz](http://www.bdm.govt.nz)

Human Assisted Reproductive Technology (HART) Act (2004)

Viewable at: [www.legislation.govt.nz](http://www.legislation.govt.nz) (click on 'statutes')