

HFEA PRACTICE GUIDANCE NOTE

EGG SHARING

It is intended that this note will be incorporated into the 7th edition of the HFEA *Code of Practice*.

A failure on the part of any person to observe any provision of the *Code* shall not itself render the person liable to any proceedings, but—

- (a) a licence committee shall, in considering whether there has been any failure to comply with any conditions of a licence and, in particular, conditions requiring anything to be “proper” or “suitable”, take account of any relevant provision of the *Code*, and
- (b) a licence committee may, in considering, where it has the power to do so, whether or not to vary or revoke a licence, take into account any observance or failure to observe the provisions of the *Code*.

– Human Fertilisation and Embryology Act 1990, s.25 (6)

Purpose of this guidance

To ensure that appropriate measures are taken to protect the interests of those participating in egg sharing arrangements.

Relevant legal and licensing provisions

This guidance is designed to assist centres to comply with General Direction D.2006/1 (“Giving and receiving money or other benefits in respect of any supply of gametes or embryos”).

Terms used in this guidance

Egg sharing – an arrangement whereby a woman undergoing treatment agrees to provide a certain portion of the eggs collected during her treatment cycle to be used in the treatment of others

Compensated egg sharing – an egg sharing arrangement in which the egg provider receives her own treatment at a discounted price, in accordance with HFEA Directions¹

Egg provider – a woman who agrees to supply a number of the eggs collected from her in the course of her own fertility treatment to be used for the treatment of others

¹ Directions D.2006/1

Egg recipient – a woman who receives eggs supplied by the egg provider as part of an egg sharing arrangement

Egg sharing agreement – an agreement between either an egg provider or an egg recipient and the centre providing treatment. An egg sharing agreement is not enforceable between a centre and patient but failure on the part of the centre to abide by the terms of the agreement will constitute a failure of compliance with the *Code of Practice* which may be taken into account by a licence committee.

Procedure

In addition to standards and the procedures that centres are expected to adopt in treating egg donors and recipients of donated eggs:

Welfare of the child and the assessment of those seeking treatment

1. Treatment centres should provide the opportunity for the egg provider and egg recipient to receive counselling from different, independent counsellors.
2. Treatment centres are expected to make available additional impartial support (e.g. a member of the nursing staff not involved in the treatment of either egg provider or recipient) to all parties during the egg sharing cycle.

Information

3. Before the egg sharing cycle begins egg providers and recipients should be provided with separate written information which should include:
 - (i) a description of the criteria used for the selection of women providing and receiving eggs in egg sharing arrangements
 - (ii) a description of how the centre proposes to determine the allocation of eggs between provider and recipient(s)
 - (iii) a description of the screening that a woman providing eggs in an egg sharing arrangement will undergo
 - (iv) a description of the terms of the agreement to be entered into (see below)
 - (v) a description of the law relating to consent, in particular the rights of a woman providing eggs to vary or withdraw her consent and the implications of her doing so
 - (vi) a description of available alternative treatment options

Consent

4. The egg provider's consent should be recorded in such a way as to allow different conditions to be placed on the use of eggs and the use and storage of embryos created for the egg provider's own treatment, on the one hand, from conditions placed on the use of eggs and the use and storage of embryos created for the treatment of the recipient(s), on the other hand.²
5. Centres should emphasise to both the egg provider and recipient(s) that the egg provider may withdraw or vary her consent up to the time that an egg, or embryo created using her eggs, is transferred to a woman, used in a project of research or allowed to perish. The possible consequences of this should be made clear to both the egg provider and the recipient(s) before the egg sharing cycle begins and should be set out in the written patient information included with the egg sharing agreement.

Counselling

6. Independent counsellors should be aware of the medical procedures and the legal and social issues relevant to egg sharing arrangements.
7. Centres should encourage couples who intend to participate in an egg sharing arrangement to undergo implications counselling. Counselling should cover:
 - (i) the implications of receiving information about the outcome of the treatment of the person(s) with whom the eggs are shared
 - (ii) the implications of either the egg sharer or recipient(s), both the egg sharer and recipient(s), or neither the egg sharer nor recipient(s) having a live birth as a result of the treatment, in particular:
 - (a) where both the provider and recipient(s) have a live birth, the implications of half-siblings who may not know each other being born and growing up as contemporaries
 - (b) where a recipient has a live birth and the egg provider does not, the implications of a recipient having a live child whilst the egg provider might remain childless

² This may be achieved using the current HFEA consent forms as follows:

- (i) the egg provider should complete one 'HFEA (00) 7' form in respect of the use of her eggs and embryos created for her own use as she were an IVF patient
- (ii) the egg provider should also complete a second 'HFEA (00) 7' form in respect of the use of her eggs and embryos created for the treatment of the recipient(s) as if she were an egg donor
- (iii) each sperm provider (usually the husband or partner of, respectively, the egg provider and recipient(s)) should complete form 'HFEA (00) 6'.

- (iii) the implications for the recipient(s) of using the eggs of a woman who is herself undergoing treatment

Confidentiality

8. In addition to standard procedures to protect the confidentiality of patients and donors, centres should take extra care to keep all notes, facilities and procedures for the egg provider separate from those for the recipient(s). Extra care should be taken to ensure that confidentiality is not compromised, for example, where the woman providing eggs and the woman receiving them are treated at the same centre at the same time.

Egg sharing agreements

9. Licensed treatment centres offering an egg sharing arrangement should draw up separate agreements with the egg provider and with the egg recipient(s). The centre's agreements with an egg provider and with those receiving eggs from that provider should be consistent with each other. Centres should abide by the terms of egg sharing agreements they have made.
10. Where benefits are offered to an egg provider those benefits should be given in connection with the cycle in which eggs are supplied for the treatment of a recipient unless there is a clinical reason to defer them. Where such a reason exists the egg provider may elect to donate all the eggs collected in the initial cycle and to take advantage of the benefits in a subsequent cycle.³
11. Eggs collected from an egg provider in a single cycle should not be shared among more than two other recipients.

Agreement between a licensed centre and an egg provider

The agreement between the treatment centre and the egg provider is expected to set out the terms of the arrangement in full. It is expected to identify clearly the egg provider and the treatment centre, and to be signed by both parties. The agreement is expected to include:

(i) General

- A statement confirming:
 - (a) that any patient who has consented to providing eggs for the treatment of others in licensed treatment under the HFE Act 1990 will not be the legal parent of any child/children resulting from the donation

³ See General Directions D.2006/1

- (b) what information will be available to the egg provider about the recipient and the outcome of her treatment, for example the number and sex of any children born as a result
- (c) what information will be available to the egg recipient about the egg provider and the outcome of her treatment, for example the number and sex of any children born as a result

(ii) Treatment

- A full description of the what the treatment is expected to involve, including:
 - (a) the number of cycles of treatment covered by the agreement
 - (b) the date upon which treatment will commence
 - (c) full details of the terms of the egg sharing arrangement [more guidance on this is given below]
- A statement from the egg provider confirming that she has:
 - (a) had an opportunity to discuss the treatment procedures involved in providing her eggs as part of an egg sharing arrangement with a qualified member of the treatment centre's staff
 - (b) received both verbal and written information about the treatment to be provided
 - (c) received all the appropriate information listed in the relevant parts of the HFEA's *Code of Practice* (written information should be attached to the agreement)
 - (d) been offered counselling about the implications of the treatment

(iii) Consent

- A statement confirming:
 - (a) that the patient's consent to the treatment has been obtained
 - (b) that the egg provider's consent to the use of eggs/creation, use and storage of embryos has been recorded appropriately
 - (c) that the agreement does not override the terms of paragraph 4 of Schedule 3 to the HFE Act 1990 (*i.e.* that the egg provider may withdraw or vary her consent in respect of any embryo created using her egg at any time until that embryo is transferred to a woman, used in a project of research or allowed to perish)

- (d) the consequences of any variation or withdrawal of consent, and the liability of the parties involved for any additional charges that may be applied

(iv) Charges

- A statement describing:
 - (a) what charges (if any) are expected to be paid to the treatment centre by the egg provider
 - (b) if the egg provider's treatment is provided at a discounted cost, the circumstances that would result in the egg provider being liable for the total cost of her treatment and the total sums she would have to pay⁴

(v) Arrangements for distributing eggs

- Full details of the proposed arrangements for distributing the eggs between the provider and recipient(s), including:
 - (a) the minimum number of eggs required for sharing
 - (b) the number of recipients among whom eggs will be shared⁵
 - (c) how these eggs will be allocated between the provider and recipient(s)

Agreement between a licensed centre and an egg recipient

The agreement between the treatment centre and the egg recipient should set out the terms of the arrangement in full. It is expected to identify clearly the egg recipient and the treatment centre, and to be signed by both parties. The agreement should include:

(i) General

- A statement confirming:
 - (a) that any patient who has consented to providing eggs for the treatment of others in licensed treatment under the HFE Act 1990 will not be the legal parent of any child/children resulting from the donation

⁴ Where an insufficient number of eggs are collected for sharing the egg provider is expected to be given the option of using all the eggs at no additional cost to her.

⁵ This should not exceed two, excluding the egg provider.

- (b) what information will be available to the egg provider about the recipient and the outcome of her treatment, for example the number and sex of any children born as a result
- (c) what information will be available to the egg recipient about the egg provider and the outcome of her treatment, for example the number and sex of any children born as a result
- (d) what information will be available to any offspring of the egg recipient about the egg provider, including information recorded on the HFEA Register which the offspring are entitled to receive and the circumstances under which they may receive it

(ii) Treatment

- A full description of what the treatment is expected to involve, including:
 - (a) the number of cycles of treatment involved
 - (b) the date upon which treatment will commence
 - (c) full details of the terms of the egg sharing arrangement [more guidance on this is given below]
 - (d) that a portion of the eggs collected from the egg provider will be used for the provider's own treatment
- A statement from the recipient confirming that she has:
 - (a) had an opportunity to discuss the treatment procedures involved in receiving eggs as part of an egg sharing arrangement with a qualified member of the treatment centre's staff
 - (b) received both verbal and written information about the treatment to be provided
 - (c) received all the appropriate information listed in the relevant parts of the HFEA's *Code of Practice* (written information should be attached to the agreement)
 - (d) been offered counselling about the implications of the treatment
 - (e) been informed about the screening that the egg provider has undergone and the limitations of that screening in the avoidance of transmissible conditions

(iii) Consent

- A statement confirming that this agreement does not override the terms of paragraph 4 of Schedule 3 to the HFE Act 1990 (*i.e.* that the egg provider may withdraw or vary her consent in respect of any embryo created using her eggs at any time until that embryo is transferred to a woman, used in a project of research or allowed to perish)

(iv) Charges

- A statement describing:
 - (a) what charges are expected to be paid to the treatment centre by the egg recipient
 - (b) what treatment services these charges will cover

(v) Arrangements for distributing eggs

- Full details of the proposed arrangements for distributing the eggs between the provider and recipient(s), including:
 - (a) the minimum number of eggs required for sharing
 - (b) the number of recipients among whom eggs will be shared⁶
 - (c) how these eggs will be allocated between the provider and recipient(s)

EXPLANATORY AND SUPPLEMENTARY INFORMATION

NB This information is not part of the guidance

The HFEA recognises there is a potential for conflict of interest in egg sharing arrangements but this should not be permitted to compromise the clinical care that is provided to either an egg provider or recipient. Treatment centres should take account of the special circumstances created by an egg sharing arrangement whereby the egg provider is both an IVF patient and an egg donor.

Confidentiality

⁶ This should not exceed two, excluding the egg provider.

Centres are expected to take care to maintain an appropriate physical separation between the notes, facilities and procedures for egg providers and recipients in the course of egg sharing treatments. To minimise conflict of interest and to protect the interests of those involved, the egg provider and recipient should be kept apart and treated by different clinical staff wherever possible.

Benefits in kind

People who supply gametes for the treatment of others may receive benefits in kind but these benefits are limited to discounted treatment services. No other benefits or payment may be given to or received by the egg provider in connection with her participation in an egg sharing arrangement.

'Egg giving,' whereby a woman agrees, prior to the commencement of her own treatment, to undergo one cycle in which all of the eggs collected are donated to another woman or women in the expectation of a subsequent discounted treatment cycle, is not regarded as suitable practice.

Consent and Agreements

In addition to the required statutory consent, two additional and separate agreements are expected to be drawn up for egg sharing arrangements. One is expected to be between the egg provider and the treatment centre, and the other between the egg recipient(s) and the treatment centre. Where there are few eggs available, the egg sharing arrangement is expected not to compromise the egg provider's treatment. Egg sharing agreements are expected to make it clear that where there are fewer eggs collected than the minimum needed for sharing, the egg provider is expected to be given the option of using all the eggs at no additional cost to her.

Treatment centres are expected to ensure that the information contained in the agreement for the egg provider is consistent with that in the agreements of the egg recipient(s). **Treatment centres are expected to obtain their own legal advice on the content and possible legal consequences of their agreements.**