HRCDC
Health Research Consent Declaration Committee

Date: 7th September 2021
Location: Videoconference by Zoom

Minutes of the Meeting

HRCDC Attendance

Name
Brigid McManus
Evelyn Mahon
Alyson Bailey
Kevin Clarke
Claire Collins
Dan Rea
Cornelius Cooney
Barry Lyons
Emily Vereker (Secretariat)
Jonny Barrett (Secretariat)

Quorum for Decisions
☒YES

New Applications - For Consideration

Applicant	Ref No.	Title
Norman Delanty	21-012-AF1	Everolimus for drug-resistant seizures associated with GATOR1 complex epilepsies
Maeve Mullooly	21-013-AF1	Mammographic breast density and breast cancer outcomes in a population-based breast screening programme

Meeting Items

1. **Opening**
   The Chair opened the meeting and welcomed the members.

2. **Apologies**
   Caroline Byrne (Secretariat), Mary Tumelty, Kathy Brickell, Sheelah Connolly, John Ferguson, Simon Furney, Aideen Hartney (AH), Zubair Kabir, Barry O'Sullivan, John Woods.

   AH submitted written comments on both applications to the HRCDC in advance of the meeting. Whilst the comments formed part of the discussions, this member was not counted as part of the quorate meeting.

3. **Disclosure of Interest**
   Application 21-013-AF1: Emily Vereker (EV) disclosed that she personally knows the representative for the Data Controller, the National Screening Service. It was agreed there was no conflict of interest.

4. **Minutes of the last meeting**

Draft minutes of 17th August meeting were circulated in advance of the meeting and were approved by the HRCDC.

5. Update on previous applications

- Application 21-008-AF1 *'Evaluation of the EEG SubQ system for epilepsy'*: the HRCDC was informed that the Applicant has requested additional time to consider how they wish to proceed with their application, including their responses to the HRCDC's request for further information from the 20th July 2021 meeting. It was discussed that confirmation on how the application will proceed will be required in advance of the October HRCDC meeting.

6. New Applications

Reference ID:	21-012-AF1
Lead Applicant:	Norman Delanty
Lead Data Controller:	Beaumont Hospital Dublin
Title:	Everolimus for drug-resistant seizures associated with GATOR1 complex epilepsies
Research Objective:	Genetic abnormalities are emerging as an important cause of epilepsy, particularly in people with difficult-to-treat seizures. Tuberous sclerosis is perhaps the best-known cause of genetic epilepsy and is associated with excessive activation of a signalling system, known as the mTOR pathway. Everolimus is a drug that reduces activation of the mTOR pathway and is used to treat drug-refractory seizures in tuberous sclerosis. The GATOR1 complex epilepsies are closely related to tuberous sclerosis. They are caused by mutations in 3 genes: DEPDC5, NPRL2 and NPLR3. Like tuberous sclerosis, they are characterised by hyperactivation of the mTOR pathway and difficult-to-treat seizures. As the GATOR1 complex epilepsies have a similar pathophysiology to tuberous sclerosis this is a proposed research study of Everolimus for the treatment of refractory seizures in the GATOR1 complex epilepsies. This is an open-label observational study.
Reason for Declaration:	The majority of participants will have capacity to consent to participation in the research study. However, these disorders cause devastating epilepsy, often with associated intellectual disability, such that individuals may lack decision-making capacity. The declaration is required to cover the processing of personal data for this study (access, collection, pseudonymisation, analysis, storage etc.) where participants lack the decision-making capacity to provide consent.
HRCDC Comments:	The HRCDC noted that ethics approval had been granted for the study where the design, methodology and ethical aspects of the study, including consent protocols are considered. Only studies that have ethical approval, or provisional ethical approval, can be considered by the HRCDC to consider if the public interest outweighs the requirement for explicit consent. The Chair requested each HRCDC member to indicate whether a consent declaration should be made. After discussing the application, and based on the information provided by the

	Applicant, it was the consensus of the HRCDC that a conditional declaration should be made. **Public Interest** • The HRCDC discussed that the study involves a small number of participants, which is expected given the rare incidence of these disorders. The HRCDC also discussed that it was important that research into rare conditions is not overlooked. • Based on the information provided it was the consensus of the HRCDC that there was a strong public interest case for undertaking this study. **Participant cohorts** • The HRCDC noted that the Applicant had requested a consent declaration to process the personal data of (i) children and (ii) adults who lack decision-making capacity. It was noted that the Secretariat had highlighted to the Applicant that a consent declaration is not required where consent for data processing on behalf of a child is obtained from their parent/legal guardian. It was commented that the legal age of consent for clinical care and treatment is 16 years of age, however the legal age of consent for participation in research, is 18 years of age. • The HRCDC queried the reference in the application to the 'retrospective cohort'. It was discussed that this term appeared to relate to existing hospital patients who will be invited to participate in the study and are identified from an existing hospital epilepsy database. It was noted that no reference was made by the Applicant to the inclusion of new patients who may be diagnosed in the future. **Decision-making capacity to consent** • The HRCDC noted the Applicant's response that the lack of decision-making capacity for some adults with an intellectual disability participant's is unlikely to change during the course of the study. • The HRCDC discussed that continued lack-of-decision making capacity should not be assumed and that the functional capacity of an adult with an intellectual disability should be reviewed periodically over of course of the study in the event decision-making capacity changes. **Proxy assent** • It was noted that proxy assent may be obtained from the participant's carer. The HRCDC discussed that processes should be in place to ensure that the carer has sufficient knowledge of the participant such that they understand their will and preference and can appropriately act as a proxy on behalf of the participant. • It was also noted that the hospital's epilepsy advanced nurse practitioner will be consulted for their advice on who is best placed to provide proxy assent. The HRCDC commented that

	the study must ensure that the most appropriate individual is approached to provide proxy assent and who understands the will and preference of the individual. **Study information leaflets & consent/assent forms** • It was discussed that the Applicant must ensure that the study information leaflet and consent/assent form provided to the adults with an intellectual disability are suitably appropriate for this cohort. It was commented that the child's information leaflet and assent form should not be provided to adults with an intellectual disability, as the information provided to children may not necessarily be suitable for adults with an intellectual disability. The HRCDC highlighted that organisations, with expertise in communications in the area of intellectual disabilities, could be engaged with to help ensure the study documents are tailored appropriately to adults with an intellectual disability. • The HRCDC also noted the interchangeable use of the term 'proxy' and 'legal guardian' as well as 'consent' and 'assent'. It was discussed that the inconsistent use of these terms should be amended for clarity and that 'proxy' and 'assent' should be used when requesting agreement of the proxy to process personal data of the participant. • The HRCDC commented that the study information leaflet is lengthy and noted that sections had duplicate information which could be removed. It was also commented that a contact telephone number, in addition to an email address, should also be provided in all the study information leaflets should a participant or their proxy have any questions or wish to exercise their data protection rights. • It was noted that the consent and assent forms include options for the storage and future use of data. The HRCDC commented that, for clarity, this section should clearly state 'only if participant consent/proxy assent is obtained'. • It was commented that the scope of the consent declaration includes the storage of personal data but does not include to processing in future studies. • The HRCDC commented that the consent documents for the 10-18yr old group may be overly technical for the younger participants in this age bracket, The HRCDC queried whether these forms could be revised further and tailored for age appropriateness for younger age groups, such as for example, for 10-13 year olds, 14-15 year olds, 16-17 year olds. **Public and Patient Involvement (PPI)** • While it was recognised that this type of epilepsy is rare, it was the view of the HRCDC that the Applicant must undertake PPI activities, which could include engagement with representative groups such as Epilepsy Ireland. It was discussed that PPI engagement could assist with possible wider public transparency measures, dissemination of findings and a review

	of the study information leaflets and assent/consent forms that are provided to adults with an intellectual disability. **Data security and risk** • It was noted that a unique participant identifier will be applied during the entire timeline of the study, including when disseminating the findings publicly. To further protect the participant, the HRCDC discussed that the unique identifier used in publications and presentations should differ to the identifier used during the earlier stages of the study. • The HRCDC also noted the risk of participant re-identification in any study publications which is due to the rare nature of this condition. It was noted that this risk is outlined in the study information leaflets provided. It was discussed that the Applicant must take all reasonable measures to reduce the risk of participant re-identification in any publications. **Other** • The HRCDC noted and agreed with the observations of the Secretariat regarding technical and more standard safeguards that may need to be considered by the Committee.
HRCDC Decision:	The consensus of the HRCDC was that a Conditional Consent Declaration should be made.
Duration of Declaration:	The Declaration is made commencing 7th September 2021 and shall be valid until 30th September 2023 and for 7 years thereafter (until 30th September 2030) or upon confirmation that the personal data have been rendered anonymised or destroyed, or whichever occurs sooner.
Conditions Attached:	**Condition 1.** The Applicant is required to make all reasonable efforts to limit the risk of participant re-identification in publications and presentations in so far as is possible to do so. In addition, as an additional data security measure, the Applicant is requested to use a wholly separate unique participant study identifier during the dissemination of the study findings, that is different to the identifier applied for the study and used during other study phases such as the collection and analysis stage. **Condition 2.** Public and patient involvement (PPI) is considered an important activity by the HRCDC and is viewed as a key data protection safeguard in situations where the participant cannot provide consent. PPI also provides a valuable way of enhancing the level of transparency, which itself is an important data protection principle. It is a condition of this declaration that PPI or engagement activities are undertaken with relevant individuals and groups for the reasons outlined above. Areas of consideration for PPI activity could include the development of the research, wider public transparency measures, the dissemination of research findings and the design, content and suitability of study information leaflets

	and assent/consent forms. Progress to meeting this condition is a reporting requirement as part of the Annual Review. **Condition 3.** As part of the assent/consent process the Applicant is requested to ensure that suitable processes are in place for the following: (i) to identify the most appropriate individual who can provide proxy assent on behalf of the adult participant who lacks decision-making capacity, and who understands the will and preferences of the participant. (ii) where proxy assent is being provided by the participant's Carer, it must be ensured that the Carer has good knowledge of the participant and understands their will and preferences. **Condition 4**. The Applicant must ensure that the content, language and design of the study information leaflets, and assent/consent forms provided to adults with an intellectual disability are comprehensible and suitable for this cohort, and are tailored appropriately to adults with an intellectual disability. Specifically, the Applicant should: - avoid using the same documents that have been designed for children when engaging with adults with an intellectual disability as their communication needs may differ. - engage with organisations with expertise in communications in the area of intellectual disabilities, that could assist with reviewing these documents to ensure suitably for adults with an intellectual disability. *(Please also see Condition 5)* **Condition 5.** The HRCDC requests that the study information leaflets, and assent/consent forms are further reviewed and amended to ensure clarity, transparency and consistency of information for participants and/or individuals providing assent. In this context the following observations were made by the HRCDC and should be addressed prior to the commencement of the study: (i) it is noted that the study information leaflet contains duplicated information which should be removed, (ii) clear information should be set out regarding withdrawing from the study, including what options are available with regards the personal data if proxy assent/consent is withdrawn and at what point in the study data cannot be deleted, (iii) in addition to an email address, a phone number should be provided so that the participant or the proxy can contact the research team if they wish to discuss the study or exercise their data protection rights. Contact information must be provided in each of the study information leaflets used. (iv) for adult participants who lack decision-making capacity, the terms 'proxy' and 'assent' should be used instead of 'legal guardian' and 'consent' when referring to or requesting agreement of the proxy to process the adult participant's personal data.

	(v) the option for the storage of the data for future research provided in the participant consent form should state 'only if participant consent is obtained'. For the proxy assent form it should state 'only if participant consent/proxy assent is obtained'.
HRCDC Recommendation	**Recommendation 1.** The Applicant is requested to consider whether the study information leaflet for the 10-18 year old cohort could be broken down into more age specific cohorts for example 10-13 year olds, 14-15 year olds, 16-17 year olds. **Recommendation 2.** As part of the assent/consent process it is recommended that the Applicant ensures that functional capacity is re-assessed periodically during the course of the study and participant consent obtained.
HRCDC Comment:	The consent declaration is made for adult participants (over the age of 18 years) with an intellectual disability who lack the decision-making capacity to provide consent. The declaration does not cover the processing of personal data of children, as parental/legal guardian consent will be obtained for this participant cohort.

Reference ID:	21-013-AF1
Lead Applicant:	Maeve Mullooly
Lead Data Controller(s):	National Screening Service Royal College of Surgeons in Ireland
Title:	Mammographic breast density and breast cancer outcomes in a population-based breast screening programme
Research Objective:	Prior research (not relating to or utilising National Screening Service-controlled personal data) has identified breast radiological features that are associated with a higher risk of developing breast cancer. One such radiological feature is mammographic breast density. Mammographic breast density refers to the areas that appear white on a breast mammogram. It collectively represents the non-fatty tissue within the breast. This study aims to build upon this existing knowledge and provide the first step into assessing mammographic breast density among women who participate in the breast screening programme in Ireland. This study will provide new insights into the influence of mammographic breast density on clinical characteristics. It will expand knowledge of this radiological feature and provide data for future studies that will investigate how it can be used to identify women at higher risk of breast cancer development.
Reason for Declaration:	A consent declaration is required as the Applicant states it is not feasible/practical to obtain consent from participants for a number of reasons include the size of the study. Data processing activities include collecting, pseudonymising, transferring, analysing and storing personal data.
HRCDC Comments:	The HRCDC noted that ethics approval had been granted for the study where the design, methodology and ethical aspects of the study, including consent protocols are considered. Only studies

	that have ethical approval, or provisional ethical approval, can be considered by the HRCDC to consider if the public interest outweighs the requirement for explicit consent. The Chair requested each HRCDC member to indicate whether a consent declaration should be made. After discussing the application, and based on the information provided by the Applicant, it was the consensus of the HRCDC that a conditional declaration should be made. **Public interest** • The HRCDC discussed the objectives and purpose of the study in the context of the significance of the public interest case. • It was queried what future benefits for patients and the public might be derived from this research and the impact the findings might have on the diagnosis and care of patients. The HRCDC commented that comparable research has been undertaken internationally, it was also discussed how the outputs of the study would add to or inform the existing knowledge base for breast screening. The HRCDC also queried if the study could be carried out by recruiting and consenting new prospective participants rather than retrospective participants only. • It was noted that the main aim of the study is to determine if there is an association between breast density and breast cancer in the Irish population which may help inform future policies and screening strategies. It was highlighted that this type of study has not been undertaken previously at an Irish population level. • It was also noted that the study involves a very large number of participants, over 12,000. • On balance the HRCDC commented that the study results are anticipated to provide knowledge regarding the correlation between breast density and the incidence of breast cancer in the Irish population. In addition, the HRCDC acknowledged that it would not be feasible to obtain consent from such a large number of participants. • Therefore, it was the consensus of the HRCDC that there is a public interest case in undertaking this research. **Communications and transparency** • The HRCDC noted the Applicant's response with regards the communications strategy to inform participants about this study and how they can withdraw, including providing information via the BreastCheck website. • The HRCDC queried the timeline for implementing this proposed strategy and discussed that transparency measures should be implemented as soon as possible and prior to the commencement of the study to allow participants time to consider if they want to withdraw their data. • It was commented that clear information and a formal process for withdrawing from the study must be in place and

	communicated widely. It was noted that the Applicant has stated that participants can withdraw from the study prior to data anonymisation in year 5 of the study. • The HRCDC further discussed that many participants will not be regular visitors to the BreastCheck website and therefore other communication channels should be explored, for example it was queried if information on the study could be provided as part of BreastCheck visits. **Access to identifiable data** • The access to personal identifiable data by the joint data controller, the Royal College of Surgeons (RCSI), was discussed by the HRCDC. Specifically, it was noted that participant names and date of birth will be viewable to RCSI researchers at the stage of the mammogram image review, which occurs early in the study and prior to data pseudonymisation. It was noted that this data is not collected and recorded by RCSI. • The HRCDC discussed the appropriateness of RCSI having access to participant names and other demographic data. It was queried whether the review of the mammogram images could occur later in the study and if the names could be redacted and the data pseudonymised at an earlier stage. • It was commented that participant names and other personal data are noted on the mammogram images that will be reviewed using automated software and that it would likely require extensive effort to redact names from the thousands of images that will be included in the study. • It was also highlighted that access to the mammogram images is provided on site at the National Screening Service (NSS) and approved by the NSS. In addition, it was noted that agreements, including individual confidentially agreements with RCSI researchers will also be in place. • The HRCDC was of the view that appropriate agreements with robust terms and conditions governing the access to personal data by RCSI, must be place between the Joint-Data Controllers prior to the commencement of the study. **Public and Patient Involvement (PPI)** • Given the nature of the research and the processing of personal data of thousands of participants without their explicit consent, the HRCDC was of the view that the Applicant must undertake PPI activities prior to the commencement of the study. • It was discussed that PPI engagement should explore what level of patient and public support there is for undertaking this type of study. The HRCDC commented that PPI activity could assist with (i) understanding participants perspective and opinions on the processing of the mammographic data, (ii) implementing appropriate transparency measures, and (iii) how the findings of the study could be disseminated. The HRCDC noted that there are likely to be a number of relevant

	representative groups who could be consulted with. It was queried if there is a PPI group within BreastCheck/National Screening Service. • The HRCDC discussed that it would be appropriate to request the Applicant to provide an update on the efforts that have been made to undertake PPI activities to help to understand the level of support that there is for this study amongst PPI representatives. It was noted that the continuation of the consent declaration will be subject to the Applicant's response on this matter. **Other** • The HRCDC noted the Applicant's response that there is no risk of incidental clinical findings as part of the study. It was commented that communication activities should be careful to ensure there is no misunderstanding as to why this study is being undertaken, specifically that this is not a clinical re-assessment of the participants breast screening. • The HRCDC noted and agreed with the observations of the Secretariat regarding technical and more standard safeguards that may need to be considered by the Committee, including in relation to GDPR training.
HRCDC Decision:	The consensus of the HRCDC was that a Conditional Consent Declaration should be made.
Duration of Declaration:	The Declaration is made commencing 7th September 2021 and shall be valid until 30th September 2026 or upon confirmation that the personal data have been rendered anonymised or destroyed, or whichever occurs sooner. *NOTE*: The declaration will not come into effect until Condition 3 is met, as evidenced in writing to the HRCDC.
Conditions Attached:	**Condition 1.** Public and patient involvement (PPI) is considered an important activity by the HRCDC and is viewed as a key data protection safeguard in situations where the participant cannot provide consent for the processing of their personal data for health research. PPI provides a valuable and meaningful way seeking perspectives and opinions from representative groups in areas such as support for the research, transparency, communication, and dissemination of the research study. It is a condition of this declaration that PPI and engagement activities are undertaken for the reasons outlined above. Specifically, PPI and engagement must: - involve seeking meaningful representative views and perspectives on the benefits and impact of the study, and - explore the level of support for this research as it involves processing mammographic and personal data, and - explore other areas such as the study's communication strategy and dissemination of findings. PPI activity must occur prior to the commencement of the study. The Applicant is required to report on the progress made to meet this condition within 3 months of the effective date of the consent

	declaration. This report must highlight the findings of PPI engagement, including the opinions of the PPI representatives on the design, benefit and level of support for this research and outline how any issues raised have been considered and have been/will be addressed. ***NOTE:*** The continuation of the consent declaration will be reviewed on the basis of the report that is submitted to the HRCDC. **Condition 2.** The Applicant must implement a robust communication strategy to clearly inform participants and public about this research study, the remit and outputs of the study, the parties involved, how and until when data can be withdrawn and what will happen to their data when it is withdrawn. Correspondingly, a clear and robust process for participant withdrawal must be implemented. As part of this condition, the Applicant must explore and consider other potential channels and methods of communication to maximise the level of transparency, beyond providing information on the BreastCheck website. Linked to Condition 1, strong consideration should be given to engaging with PPI representatives on this matter. The Applicant is required to undertake robust transparency measures prior to the commencement of the study. **Condition 3.** Appropriate data sharing agreements/arrangements must be in place between the joint data controllers of this study prior to any data processing taking place. In addition, individual confidentiality agreements must be signed by the RCSI researchers prior to accessing to personal identifiable data from the National Screening Service. Note that access and sharing of data cannot occur until the necessary appropriate agreements/arrangements are in place and confirmation of this is provided to the HRCDC. **Condition 4.** The Applicant must ensure that relevant GDPR training is completed by all of the research project team members, prior to their involvement of the study.

7. Annual Review of Declarations

The Secretariat has received 4 Annual Reviews in advance of the meeting all of which were deemed to be satisfactory:

- Ref ID: 19-004-AF1 (Alistair Nichol - REMAP-CAP)
- Ref ID: 19-062-AF1 (Zena Moore - The relationship between Sub Epidermal Moisture (SEM) measurement and Inflammatory markers in the early identification of Pressure Ulcers)
- Ref ID: 19-077-AF3 (David Galvin - IPCOR Study)
- Ref ID: 20-012-AF1/COV (Clíona Ní Cheallaigh - COVID-19 BIORESOURCE)

8. Activities Report & Upcoming Events

The Secretariat (EV) provided an overview of the Activities Report which was provided to the HRCDC in advance of the meeting.

EV highlighted the meetings and engagement between the HRCDC Secretariat and members of (i) Confidentiality Advice Service at the Health Research Authority (UK) and (ii) the Health and Social Care Public Benefits and Privacy Panel for Health and Social Care (Scotland).

Articles and events of interest where noted:

- The Health Research Board Annual Report: https://www.hrb.ie/fileadmin/2._Plugin_related_files/Publications/2021_publications/2021_Corp/11557_HRB_AR2020_FA_ONLINE.pdf
- 'Harmonising the human biobanking consent process: an Irish experience': https://hrbopenresearch.org/articles/4-96/v1
- European Data Protection Board – 'Concept of Data Controllers and Data Processors': https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-072020-concepts-controller-and-processor-gdpr_en
- Launch of the HSE National Framework for the Governance, Management and Support of Research: 9th September 2021
- Innovation Gateway Open Door and Q&A (Health Data Research UK; 9th September 2021)

9. AOB

The HRCDC commented that Speaker (Dr Michaela Th. Mayrhofer/BBMRI-ERIC) arranged for the Committee, who presented on the topic of Biobanking, delivered a very thought provoking and comprehensive presentation.

*** The Chair closed the meeting***