

Information for Patients Considering Surrogacy

What is Surrogacy?

Introduction

This leaflet has been designed to help you understand some of the issues relating to surrogacy.

However this leaflet does not replace seeking your own independent legal advice which **we strongly advise** that you do before proceeding with surrogacy treatments.

Furthermore the Government is currently (2018) reviewing the Law concerning Surrogacy and it is therefore even more important that independent legal advice is taken before you start treatment.

What is surrogacy?

Surrogacy is when a woman carries a baby for a couple who are unable to conceive or carry a child themselves for medical or physical reasons.

The intended parent(s) are person or persons who become the legal parent(s) of a child born through surrogacy.

There are two types of surrogacy:

Traditional Surrogacy: This is a pregnancy where the surrogate is genetically related to the baby and becomes pregnant through artificial insemination. While this used to be common, most surrogacy arrangements today involve host surrogacy.

Host surrogacy is when IVF is used, either with the eggs of the intended mother, or with donor eggs. The surrogate mother therefore does not use her own eggs, and is genetically unrelated to the baby. There are three stages to 'host' surrogacy:

- **Egg donation**
The female intended parent, or an egg donor, undergo special procedures to extract a number of eggs.
- **Fertilisation**
The eggs are fertilised with sperm in the laboratory, resulting in embryos.

- **Embryo Transfer**

The embryo is transferred into the womb of the surrogate mother.

The Embryo Transfer can be transferred to the surrogate either 'fresh' or after having been de-frosted from storage. For a fresh embryo transfer the cycles of the surrogate and the egg donor must be synchronised, and this is done using hormone medications.

In cases where embryos have been frozen already and the de-frosted embryos are being transferred, the surrogate mother is provided with hormone medications to 'ready' her womb lining.

Legal rights

Surrogacy is not regulated by the Human Fertilisation and Embryology Authority (HFEA).

Surrogacy agreements are unenforceable in England and therefore any patients seeking this treatment must seek independent legal advice.

The birth mother

At present, the Law states that the woman who gives birth to the child is the legal mother when the child is born and will have parental responsibility regardless of genetic relation to the child, any contracts or payments.

The intended mother

The commissioning/aspiring mother will not be the mother of the child even if her eggs are used as part of treatment services provided. She has no legal rights in relation to the child by virtue of her eggs being used or under any surrogacy agreement.

The father

The child's legal father or 'second parent' will be the surrogate's husband or partner unless:

- Legal rights are given to someone else through a parental order or adoption.
- The surrogate's husband or civil partner did not give their permission for their wife or partner to carry the pregnancy.
- If your surrogate has no partner, or they are unmarried and not in a civil partnership, the child will have no legal father or second parent unless the intended parent actively consents.

Consents

From 1st October 2013, it is possible for one of the intended parents commissioning a surrogacy arrangement to be recognised as the legal parent when the child is born, if the surrogate is not married or in a civil partnership and the relevant consents are in place.

These consents will be completed with you and your partner at your clinic appointment with the doctor as applicable.

Screening

Screening of all those involved in surrogacy arrangements will be undertaken in line with HFEA current guidelines before treatment can be provided.

Funding

The clinical commissioning groups (CCGs) do not currently provide surrogacy on the NHS.

Further information:

The Human Fertilisation and Embryology Authority has information on its website about surrogacy, and we strongly advise you to read and understand this.

If people are seeking surrogacy treatment overseas, the legal and immigration implications are complex. You should seek your own legal advice.

The Foreign and Commonwealth Office published guidance on the immigration procedures for UK parents who have children born through surrogacy abroad.

You may also wish to contact the UK Border Agency for further information.

www.bma.org.uk/ap.nsf/Content/ConsideringSurrogacy

www.surrogacyuk.org

www.surrogacy.org.uk

Reference: www.hfea.gov.uk

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