



## PATIENT INFORMATION LEAFLET

# EMBARKING ON THE SURROGACY JOURNEY

This leaflet provides an overview of surrogacy, a course of action that some individuals and couples choose to become parents. Whether you are considering surrogacy as an intended parent, or potential surrogate this guide offers essential information on the procedure and what to expect throughout the process.

While this leaflet offers guidance on surrogacy, it should not replace seeking independent legal advice. We strongly recommend that you seek such advice before proceeding with surrogacy.

## WHAT IS SURROGACY?

Surrogacy is when a person carries a pregnancy and gives birth without intending to be the parent of the resulting child. The surrogate does this for another individual or for a couple who cannot conceive or carry a child themselves due to medical or physical reasons.

There are two types of surrogacy:

- **Traditional Surrogacy:** The surrogate's egg is fertilized with the sperm of an intended father. This means the surrogate is genetically related to the baby.
- **Gestational Surrogacy (or Host Surrogacy):** In this method the surrogate has no genetic relation to the child. An embryo, created using the eggs and sperm of the intended parents or donors through IVF, is transferred to the surrogate's womb. This is the type of surrogacy most often used in fertility clinics including Saint Mary's.

## THE STAGES OF GESTATION SURROGACY INCLUDE:

- **Egg Donation:** The female intended parent, or an egg donor, undergoes ovarian stimulation and egg collection to retrieve a number of eggs.
- **Fertilisation:** The eggs are fertilised with sperm in the laboratory, resulting in embryos ready for transfer
- **Embryo Transfer:** The embryo is transferred into the womb of the surrogate. It is a simple procedure that typically does not require any analgesia or anaesthesia. Frozen embryo

transfer involves using embryos that were frozen earlier. These embryos are thawed and then transferred into the surrogate's womb. The surrogate is provided with hormone medications to help prepare the lining of her womb for receiving the embryo.

- **Single Intended Parent:** The individual seeking surrogacy must provide their own gametes (egg cells or sperm). It is mandatory for the intended parent to be a contributor of either the sperm or the egg used in the surrogacy process.
- **Intended Parent Couple:** For couples exploring surrogacy, at least one partner must be a gamete provider. It is not permissible for both the egg and sperm to be sourced from donors; one of the partners must contribute either the sperm or the egg.

## UNDERSTANDING SURROGACY: MEDICAL CONSIDERATIONS

Surrogacy is a way of becoming parents chosen for various medical and personal circumstances.

**Anatomical Complications:** Certain conditions can result in the absence or malformation of the womb. Examples include Mayer-Rokitansky-Küster-Hauser syndrome (MRKH) or post-hysterectomy.

**Medical Treatments Affecting Fertility:** Radiotherapy of the womb (uterus), often employed for specific cancers, can compromise the uterus's capacity to support a pregnancy successfully.

**Significant Health Impediments:** If a medical conditions could result in a pregnancy with high health risks for them and their baby, having another person carry the pregnancy might be advised to reduce those risks.

**Reproductive Challenges:** If an individual has had a number of miscarriages or experienced difficulties in becoming pregnant after embryo transfer, the option of surrogacy might be suggested as an alternative way of becoming parents. A series of unsuccessful pregnancies or recurrent difficulties in embryo implantation after assisted reproduction techniques, might suggest surrogacy as a viable route to parenthood.

**Personal Circumstances:** Male same-sex couples may consider surrogacy as a way of conceiving a child who is genetically related to one of the couple.

## LEGAL PARENTHOOD

Currently, the law requires that the person who gives birth to the child is recognised as the child's legal mother/parent at the time of birth. This holds true even if she is not genetically related to the child, and regardless of any contracts or payments made.

Despite any agreements made or the origin of the eggs, the intended parents will not automatically have legal rights over the child. The intended parents need to go through a legal process to become the baby's official parents.

The legal father or second parent of the child will usually be the husband or civil partner of the surrogate, with a few exceptions:

- If the surrogate's husband or civil partner did not give consent to the surrogacy, they won't be considered the legal father or 'second parent'.
- If a surrogate is single at the time of conception, the man providing the sperm will automatically be regarded as the child's second legal parent upon birth, provided he desires this role. The surrogate has the option to nominate another individual as the second legal parent, such as the intended mother or a non-biological father. For this nomination to be effective, both the surrogate and the intended second parent must provide their consent prior to the IVF (transfer of the sperm, egg, or embryo). These HFEA consents (called SWP, SPP) will be completed and verified at your clinic appointment with the doctor.
- Importantly, even if the biological father is regarded as the legal father under English law, it doesn't automatically grant him parental responsibility (PR) for the child.

## LEGAL RIGHTS

**Please note that UK surrogacy law is in process of reform. Hence, we strongly advise speaking to your clinic and seeking legal advice close to the time of your treatment. What we describe here is the situation at the time of creation of this information sheet.**

In England and Wales, any agreements made about surrogacy aren't legally binding. This means that even if there is a prior agreement, the person who gives birth (the surrogate) is considered the legal mother/parent when the baby is born. They have the right to make decisions about the baby, including keeping the child. Because this area of law is complex, we strongly advise anyone thinking about surrogacy to get independent legal advice before starting the process.

**Birth Certificate:** In the UK, the person who gives birth to the baby (the surrogate) is legally considered the mother/parent when the baby is born.

**Parental Order:** To transfer legal parenthood from the surrogate (and their partner if applicable) to the intended parents, the intended parents must apply for a 'parental order'. This is a legal document that reassigns parenthood and results in the issuing of a new birth certificate with the names of the intended parents.

**Criteria:** To be eligible for a parental order:

- At least one of the intended parents must be genetically related to the child (either the egg or sperm donor).
- The intended parents must be in a stable relationship (either married, in a civil partnership, or living as partners). Single people can also apply.
- The child must live with the intended parents.
- The intended parents must apply for the order within six months of the child's birth.
- The surrogate (and her partner if applicable) must fully agree to the order. This consent cannot be given until the child is at least six weeks old.

**No Commercial Surrogacy:** It is illegal in the UK to pay a surrogate except for reasonable expenses. This means you can reimburse a surrogate for costs related to the pregnancy (like maternity clothes or travel to medical appointments) but you can't pay a fee.

**Legal Support:** It's advisable for both surrogates and intended parents to seek legal advice before entering a surrogacy agreement in the UK, given the complex nature of the process.

Many international surrogacy agreements occur in countries where intended parents are automatically recognised as the child's legal parents at birth and are listed on the birth certificate. It is important that you understand that there is no universal consensus on surrogacy laws. Surrogacy's legal and cultural perception varies globally.

England and Wales operate independently of these international stances. Any surrogacy arrangements made abroad are not automatically recognized in the UK. Therefore, to secure legal rights in the UK, intended parents must apply for a Parental Order upon return.

## FINDING A SURROGATE

Some people think about asking someone they know, like a family member or friend. This can work well because you already trust each other. But it is important to talk about everything clearly, and counselling services may be helpful.

If you want to find a surrogate outside of your circle, please remember that fertility clinics do not directly find surrogates for you. A list of surrogacy organisations and websites that can provide guidance and support is provided below (under 'Further Information').

## PRE-TREATMENT REQUIREMENTS

### COUNSELLING

Engaging in counselling sessions is a necessary step for intended parents and surrogates. These sessions are designed to address both emotional and practical aspects associated with surrogacy. Past participants have often found these discussions enlightening, revealing considerations they hadn't previously thought about. A joint session, involving both the intended parents and the surrogate, will be scheduled to discuss and establish mutual agreements and expectations.

### SCREENING TESTS

For the welfare and protection of everyone involved in the surrogacy process, it is imperative that those involved undergo a series of screening tests. These tests aim to reduce infection risks and identify prevalent genetic risk.

This includes tests for genetic diseases prevalent in the ethnic group of the gamete providers, chromosome tests and screening for HIV, Hepatitis B, Hepatitis C, and other sexually transmitted diseases. A detailed and tailored list of the necessary tests will be provided at your surrogacy consultation session.

## ASSESSMENT OF FUTURE CHILD'S WELFARE

The HFEA mandates a thorough evaluation of the surrogates and intended parents' background and health. This assessment aims to ensure the welfare and well-being of the child to be born.

## FUNDING

Surrogacy is not generally available on the NHS.

## LEGAL ADVICE

It is important to note that changes to Surrogacy Law are anticipated in the autumn of 2023. As such, the content within this section may require revision post these reforms.

Owing to the intricacies of the legal framework governing surrogacy, we strongly recommend that all parties involved seek independent legal counsel from a specialist in family law.

## OVERSEAS SURROGACY

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

## FURTHER INFORMATION

<https://surrogacyuk.org>

<https://brilliantbeginnings.co.uk>

<https://www.surrogacy.org.uk/>

<https://www.mysurrogacyjourney.com>

The Human Fertilisation and Embryology Authority has information on its website about surrogacy, and we strongly advise you to read and understand this. [www.hfea.gov.uk](http://www.hfea.gov.uk)

The Trust does not accept responsibility for any of the contents of these external websites.

## CONTACT DETAILS



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