



SERVICES GUIDE

Surrogacy and
parental orders



Building a family through surrogacy

We provide a personalised approach to help our clients build or extend their family through surrogacy, whether in the UK or overseas. Nature can be unpredictable, so we will ensure you have a strong foundation of support to deal with the highs and lows of what is going to be an incredible journey.

Surrogacy

The Stowe Family Law surrogacy team will support you with legal advice to ensure you have the information you need to make key decisions and ensure that the necessary documentation is in place and legal formalities complied with.

What is surrogacy?

Surrogacy is where a woman carries and gives birth to a child with the intention of handing the child over to another person(s) (known as the intended parent(s)) who will raise the child as their own.

Surrogacy and parental orders

SERVICES GUIDE

03



www.stowefamilylaw.co.uk



04

What is the position regarding surrogacy in the UK?

Surrogacy arrangements are lawful, but not legally recognised in the UK.

The surrogate mother will always be recognised as the legal mother of any child born through surrogacy, even if she does not have a genetic relationship with the child.

If the surrogate is married, her husband/wife/civil partner will be treated as the child's legal father/second parent in certain circumstances.

It is possible that the intended father, or one of the intended fathers (if he is the biological father), will be recognised as the legal father of the child. However, this depends on various factors and, in any event, he will not have parental responsibility (the day to day rights and responsibilities to care for a child).

This means that, as the intended parents, you are denied full legal rights and status in respect of your child, even if one or both of you are the genetic parents. Clearly, this is not the aim of a surrogacy arrangement.

What can be done to rectify this situation?

The solution, provided you are in a relationship, is a Parental Order – at present such Orders are not available to single people, but this will be remedied hopefully in the near future. A Parental Order transfers parental responsibility and legal recognition as the child's parents from the surrogate and her husband/wife/civil partner to the intended parents. The child's birth will be re-registered, so the child will have a new birth certificate which names the intended parents as their parents.

What is the process for a Parental Order in the UK?

Our legal team can guide and support you through every step of the process, from preparing your application to obtaining your surrogate mother's consent and ensuring the strict rules regarding this have been complied with, attending hearings with you and preparing the documents the court requires for those hearings.



What if you cannot apply for a Parental Order?

Our legal team will be able to advise you as to whether they believe this is the case. If it is, there are various other options you may wish to consider and our legal team can explain these to you and help you with any of the alternative applications.

What happens if your child is born abroad?

Unfortunately, there is no global recognition of surrogacy law, and so even if you are recognised as the legal parents of your child in the country in which he/she is born, under UK law the surrogate and her spouse (if relevant), will remain recognised as your child's parents. This means you will still need to apply for a Parental Order on your return to ensure you have the necessary rights regarding your child in the UK.

What about practical arrangements?

There are various practicalities to consider, such as arrangements during your surrogate's pregnancy. These include communication with her; time spent with her; whether you will be present at the birth; and when she will hand over the child to you. Our legal team can explore these with you.

A key arrangement which could cause issues is payments to the surrogate. Although it is not illegal in the UK to pay a surrogate, the family court will consider any payments made to your surrogate as part of your Parental Order application.

One of the criteria which must be met in order for a court to make a Parental Order, is that no more than 'reasonable expenses' have been paid. This term has never been defined, making this issue tricky for both intended parents and surrogates. The judge considering your application for a Parental Order will want details of the payments you have made to the surrogate so it is important to get advice about payments at any early stage.



For more information on surrogacy and parental orders
please call our Client Care Team on **0330 056 3171**
to speak with one of our specialist family lawyers
or visit www.stowefamilylaw.co.uk

