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# Myerson **Family**

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## Our Guide to Surrogacy

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# Welcome

We understand the complexities of modern life and, therefore, everything we do is ultimately about you, and it is important you get to know the team that will be working with you every step of the way. It's a deep source of satisfaction that so many clients choose Myerson as their trusted adviser.

## Why Myerson?

Our highly experienced and discreet family lawyers, provide clear and supportive legal advice, tailored towards your individual family needs.

As a Top 200 UK Law Firm, we are also proud to be ranked as '**Top Tier**' in the prestigious international directory **The Legal 500**, and commended by The Times '**Best Law Firms 2023**'. This means you can be certain that you will be receiving the highest quality legal advice.

Being a full-service law firm means we are well placed to provide wide-ranging, tailored legal advice to meet your individual needs. We work closely with other departments internally including Real Estate, Corporate, Commercial and Private Wealth Lawyers to ensure that your needs are protected comprehensively.

You can find out more about our **Family Team** by clicking [here](#).



# A guide to surrogacy

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## What is surrogacy?

Surrogacy is the process by which a child is carried through pregnancy by a woman who had entered into an arrangement (before she became pregnant) with the intention that, at birth, the child and parental responsibility for the child will be transferred to another person or persons, known as the intended parent(s).

Either a couple or a single person can agree to have a child by surrogacy. If you are using a surrogate to start a family, you will need to undergo fertility treatment with your surrogate.

At birth, the surrogate mother will be the legal mother of the child, regardless of the presence of any genetic connection. If the surrogate is married, the legal father will likely be her husband. If the surrogate is unmarried, the legal father will likely be the intended father.

For that reason, after birth, the intended parent(s) will need to make a special court application to obtain parental rights, known as an application for Parental Order. The transfer of legal parenthood and parental responsibility to the intended parent(s) can only be done by the Court, making a parental order under section 54 of the Human Fertilisation and Embryology Act 2008.



# How do I apply for a Parental Order?

The application should be made within six months of the child being born;

- At least one of the intended parents must be domiciled in the UK;
- The child must be living with the intended parent(s) at the time of the application;
- No money can be exchanged other than for reasonable expenses;
- Conception must have taken place artificially, and the child must be genetically related to at least one of the intended parents.

The application form is submitted to the local family court along with the following:

- A copy of the child's birth certificate;
- Your marriage/civil partnership certificate; if applicable; and
- The court fee of £215.

Once you have made an application for a parental order, a Parental Order Reporter will be appointed. They will assist the Court in deciding whether a parental order is in the child's best interests.

## What will the Parental Order Reporter consider?

Consideration is given to the welfare of the child and in particular, the 'welfare checklist', including

- The needs of the child;
- Any possible risk of harm to the child;
- The relationship the child may have with any relatives;
- The child's background and whether they will grow up with a knowledge of their origins.



The Parental Order Reporter will meet with the intended parents and will see them with the child. They will consider whether the criteria for making a Parental Order are met and will then make a recommendation to the Court.

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The Parental Order Reporter will meet with the intended parents and will see them with the child. They will consider whether the criteria for making a Parental Order are met and will then make a recommendation to the Court.



Before any meeting with the Parental Order Reporter, it is useful to have the following information to hand:

- Your marriage or civil partnership certificate, if applicable;
- The child's birth certificate;
- Details of any payments you have made to the surrogate and what these payments relate to;
- The child's personal health record ('red book').

The Parental Order Reporter will need to establish that the surrogate and her legal partner (if she has one) consent to the making of the parental order. The Parental Order Reporter may also carry out background checks with the local authority and the police to see if there is any information held that would be relevant to the child's safety.

The child's welfare will be the Court's paramount consideration when deciding whether to make a parental order. The Parental Order Reporter will prepare a report for the Court to recommend whether a Parental Order should be made.

## Can I enter into a Surrogacy contract?

Commercial or legally binding surrogacy arrangements are not allowed in the UK like they are in other countries. There are certain rules that you have to abide by when going through surrogacy, and it is important to get legal advice at an early stage before you start the treatment process.





# Can I use an international surrogate?

It is possible to use a surrogate from another country and have your fertility treatment abroad. If you are using an international surrogate, you will also need to get legal advice from a lawyer in the foreign country, as well as in the UK.

The law in England will still apply even if the surrogacy took place abroad. The intended parent(s) must still obtain a parental order to be considered as a legal parent in the UK.

The same criteria apply to an application for a parental order, but there can be complications. These complications are often due to evidence about payments made or obtaining proof of consent, which must be given freely by the surrogate. It is therefore important that you seek legal advice before arranging an international surrogacy.



# You're in safe hands!

If you would like further information about how we can help you with **Surrogacy Law**, or if you have any questions, please don't hesitate to contact a member of our **Family Law Team** today.

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Call: 0161 941 4000

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