NHS
The Leeds Teaching Hospitals
NHS Trust

Surrogacy

Information for patients

Leeds Fertility

Welcome

This booklet provides information about Surrogacy, and how surrogacy is managed at Leeds Fertility (LF).

You can find further information at www.leedsfertilityclinic.co.uk

How to contact us:

Please see page 20 for urgent and non-urgent contact details.

Contents

Page 04	What is Surrogacy?
Page 04	Who might wish to have surrogacy?
Page 05	How does surrogacy work?
Page 06	Terminology
Page 06	How can I find a surrogate?
Page 08	How successful is surrogacy?
Page 08	Does the age of the surrogate matter?
Page 09	How much does it cost to have a surrogate?
Page 11	What preparations are needed for surrogacy?
Page 12	What are the risks of surrogacy?
Page 16	What are the legal issues to consider?
Page 16	Surrogacy for Male couples
Page 17	What about if we want to have surrogacy abroad?
Page 18	Where can I go for advice and support?
Page 19	Useful resources
Page 20	Contact us
Page 21	Questions / Notes

What is Surrogacy?

Surrogacy is when a woman carries and gives birth to a baby for another individual who wishes to have a child but cannot do so naturally or with the help of other fertility treatment.

Who might wish to have surrogacy?

Some women have medical conditions that make it impossible or dangerous for them to get pregnant and give birth, although they may have healthy eggs in their ovaries. For example:

- Women born without a womb, or with a womb which is abnormally developed.
- Women who have had a hysterectomy (removal of the womb) e.g. for treatment of cancer from which they have fully recovered.
- Women who have a damaged womb lining e.g. following severe scraping of the womb which has caused scarring.
- Women who have had many miscarriages.
- Women who have had many unsuccessful attempts at fertility treatment e.g. *in vitro* fertilization (IVF).
- Women with severe medical conditions for whom a pregnancy could be dangerous e.g. cystic fibrosis, heart or kidney disease.

Surrogacy is also an option for male same-sex couples who wish to have a family. **(Please see page 16 for more information about Surrogacy for Male couples).**

How does surrogacy work?

There are two types of surrogacy:

1. Host surrogacy (also known as full or gestational surrogacy):

If you are unable to carry a baby, but you have your own eggs, these can be removed from your ovaries and fertilized with your partner's sperm to create embryos in an IVF cycle. Sometimes donor eggs (not from the surrogate) or donor sperm may be used. There is therefore **NO GENETIC CONNECTION** between the baby and the surrogate. This is a service offered at Leeds Fertility. **(Please see separate IVF patient information).**

2. Straight surrogacy (also known as partial or traditional surrogacy):

If you are not producing any eggs at all, then you can use the surrogate's eggs which are fertilized with your partner's sperm or donor sperm. The surrogate is therefore the egg donor as well and will be the baby's **GENETIC DONOR**. This can be achieved using intrauterine insemination (IUI), although occasionally IVF is used. It is strongly recommended that if you go down this route, you have treatment at a licensed UK fertility clinic, and this is a service offered at Leeds Fertility. **(Please see separate IUI patient information).**

Terminology:

- **Commissioning Couple / Parent:** This is the couple or parent who requires a surrogate to carry a pregnancy and give birth to the baby. They are also known as the intended parent(s).
- **Surrogate:** This is the woman who carries the pregnancy and gives birth to the baby. Once the baby is born, it is handed over to the commissioning couple who will become the child's legal parents after a Parental Order is granted **(See page 14)**.
- **Egg Provider:** The eggs used in surrogacy may be from the commissioning mother or an egg donor (host surrogacy), or from the surrogate herself (straight surrogacy). The woman providing the eggs is known as the egg provider.
- **Sperm provider:** This is either your partner or a sperm donor.

How can I find a surrogate?

You may have a family member or friend in mind who you may wish to ask to be a surrogate for you. This can be a good option as you may already have a trusting relationship with this person. However, there may not be a suitable person or you may prefer to use someone you don't know. If this is the case, it is very important that you do your research. Fertility clinics are not allowed to find a surrogate for you. In the UK it is illegal to advertise for surrogates, but the counsellors at Leeds Fertility will support you through any difficulties you may face during this part of the process. If you need to look for a surrogate outside of your immediate circle, there are several organisations that can help you with advice and introductions to surrogates. **(See Useful Resources page 19)**.

Whether you choose to use a surrogate who you already know, or find someone new who wishes to help you, it is really important to ensure you have a good understanding between you about how things will work in the future. Here are just a few things to consider. The counsellors at Leeds Fertility will be able to discuss these with you carefully:

- How much contact will you have before the treatment?
- Would you like to attend appointments during the treatment together?
- Would you like to attend all pregnancy appointments together?
- What antenatal screening do you wish to consider, and what does your surrogate feel about this?
- What birth plan do you have in mind, and how does your surrogate feel about this?
- Will you have contact with the surrogate after your child has been born?
- What do you think you will tell your child about their origins?

It is strongly recommended that you draw up an agreement beforehand. Whilst this will not be legally binding, it can provide clarity in the event of any issues arising.

If you use one of the organisations listed on **page 19**, this may be something they can help you with. It is vital that you are certain that your surrogate is able to have a safe, healthy pregnancy and birth. You will also want her to be someone you can build a close, trusting relationship with. Ultimately, there are no guarantees and the decision to proceed is purely up to the surrogate herself.

How successful is surrogacy?

The success rates for surrogacy vary depending upon a number of factors including:

- The most important factor is the age of the woman whose eggs are being used. The younger the egg the higher the chance of success. This can be seen in the following table which shows the chances of a live birth at different ages following IVF treatment at Leeds Fertility in 2016 with babies born in 2017 **(www.hfea.gov.uk)**.

Age	<35 years	35-37 years	38-39 years	40-42 years	43-44 years	>44 years
Live birth per embryo transfer	**41%**	**39%**	**25%**	**32%**	**4%**	**0%**

- The surrogate's ability to get pregnant.
- The success of the treatment you're having (e.g. IUI or IVF). **(Please see separate IVF and IUI patient information www.leedsfertilityclinic.co.uk)**.
- The quality of the father's or donor's sperm.

Does the age of the surrogate matter?

If you are using the surrogate's eggs (i.e. straight surrogacy), then the chances of success will depend upon how old she is. If you are using your own eggs it is your age that affects the success rates. Likewise, if you are using a donor's eggs, it is her age that matters **(see table above)**. Even if you are not using your surrogate's eggs, her age is important because as a woman gets older, pregnancy can become more complicated with higher risks to her and the baby.

For example, high blood pressure and diabetes in pregnancy are more common in mothers who are older than 35 years. Deliveries can also be more difficult with a higher chance of needing assistance with a forceps delivery or caesarean section.

All women considering becoming a surrogate and their partners are assessed by Leeds Fertility to determine if they are suitable to go ahead with a surrogate pregnancy.

How much does it cost to have a surrogate?

Surrogate Expenses

It is against the Law to pay a surrogate in the UK. However, you are responsible for reimbursing any reasonable expenses that the surrogate incurs. For example:

- Maternity clothes
- Travel expenses
- Loss of earnings
- Hospital appointments
- Childcare

These expenses will be scrutinised by the Court when the Intended Parents apply for their Parental Order.

According to Surrogacy UK **(http://www.surrogacyuk.org/)** expenses typically range from £7,000 to £15,000. The costs may vary depending upon individual circumstances, such as if your surrogate is pregnant with twins, she may have additional expenses.

Clinic Costs

The cost of the surrogacy treatment itself (e.g. investigations, medications, IVF or IUI) may be funded by the NHS, or you may need to pay for this yourself depending upon your individual circumstances. This will be discussed with you in your clinic appointments.

The costs will vary according to the type of treatment you need:

- If you are using the surrogate's eggs in a **straight surrogacy arrangement**, and her fallopian tubes are healthy and the sperm you are using is good quality then IUI is likely to be recommended.
- If you are using your own eggs or a donor's eggs in a **host surrogacy arrangement**, then **IVF** will be needed. If the sperm is not of the highest quality, you may need **intracytoplasmic sperm injection (ICSI)** which is an additional cost on top of IVF. There also may be additional costs where egg donation is used.

Please see separate IUI, IVF and ICSI, and Egg Donation patient information and Leeds Fertility Fee Schedule.

Legal Costs

The cost of independent legal advice is very variable and may be several thousand pounds but occasionally can exceed £15,000 to £20,000.

What preparations are needed for surrogacy?

The counsellors play a vital role in successful surrogacy arrangements. They meet with the intended parents and the potential surrogate (and her partner if she has one) in separate meetings. Then all parties meet together in a third meeting to make sure everyone is clear and happy with what is planned.

Both the commissioning couple and surrogate (and the surrogate's partner if she has one) are required to undergo a number of tests. These include detailed infection screens for HIV, Hepatitis and Syphilis, Chlamydia and Gonorrhoea. The surrogate will need to be checked to make sure she is immune to Rubella. If she is not, she will need to be vaccinated.

A genetic test is also carried out on the egg and sperm providers including checking chromosomes and for common genetic conditions such as cystic fibrosis. This means that any conditions that could be passed on to a child are identified before treatment has started and the implications can be discussed. This does not rule out genetic problems absolutely as rare things can occur that have not been specifically tested for because there is no test available.

The sperm provider will be required to freeze sperm, which is then quarantined for 6 months. When he is re-tested and found to be clear after six months we know that the chance of passing anything on to the surrogate is minimal if the frozen sperm is used. Sometimes the commissioning mother is interested in the possibility of breastfeeding. This can be assisted with medicines to bring on milk production (lactation) before the birth of the baby.

What are the risks of surrogacy?

Treatment Risks:

There are risks specific to IUI and IVF/ ICSI which are outlined in the separate patient information. **(Please see www.leedsfertilityclinic.co.uk patient information).**

Clinical risks of surrogacy:

The risk of transferring infectious diseases such as HIV and hepatitis to the surrogate are minimal when treatment is managed by a Licensed Centre such as Leeds Fertility because of the screening and quarantine practices required by the HFEA. **(See page 11)**. If a registered donor at a licensed clinic is used, the donor will automatically be screened under the same Code of Practice.

The surrogate should also refer to the separate IUI and IVF patient information leaflets for information about risks related to these treatments. **(See www.leedsfertilityclinic.co.uk)**.

Legal surrogacy risks:

Surrogacy arrangements are based on trust and in the UK your surrogate will be treated as the legal mother of your child. Until you have a Parental Order, she can change her mind about the arrangement at any time. If your surrogate decides not to hand over the child at birth, you will not be able to apply for a Parental Order. You can make other applications to the Court and they will decide what is in your child's best interests. Equally, the commissioning couple may also change their mind and choose not to keep the baby e.g. if the baby is born with physical problems.

This is an emerging area of the Law and still largely untested.

What are the legal issues to consider?

Surrogacy involves a lot of complicated legal issues. Leeds Fertility recommends that you seek independent legal advice whether you proceed with surrogacy with us, or if you opt for treatment elsewhere, and **particularly if you are having treatment overseas**. It is important to understand that surrogacy arrangements are not legally enforceable under UK Law, even if you have signed a contract with your surrogate.

Legal Parenthood

In the UK, the surrogate is the **legal mother** of the child until a **Parental Order** is granted from the court; even if the eggs and sperm are yours, or donated (i.e. the surrogate is not genetically related to the child). Her name will appear on the birth certificate, and a new certificate will be issued once the Parental Order has been granted. **Once you have a Parental Order for the baby, the surrogate will have no further rights or obligations to the child.**

Legally, a child can have two parents, and in a surrogacy arrangement the first legal parent is the surrogate until the Parental Order is granted.

Who the **second legal parent** will be at birth, and whose name will appear on the birth certificate, will depend upon your circumstances:

- If the surrogate is **married** or **in a civil partnership** her partner will **automatically** be the second legal parent (until a Parental Order is granted) unless it can be shown that her partner did not consent to her treatment.

- If the surrogate is **unmarried (single, widowed or divorced)**, then the man providing the sperm (if he wants to be the legal father) will **automatically** be the second legal parent at birth.

However, it is possible for the surrogate to **nominate a second legal parent** such as the intended mother or non-biological father (e.g. when donor sperm is used). If you wish for this, then both the intended second parent and the surrogate will need to give their consent before the sperm, egg or embryo are transferred. Please discuss this with the team at Leeds Fertility, so we can support you through this process.

The Parental Order

If the intended parents wish to become the legal parents of the child, they must apply for a Parental Order after the child is born. **The application must be made between six weeks and six months of age.** The effect of the Order is to transfer the rights and obligations of parenthood to the intended parents, providing certain conditions are met.

- Applications for a Parental Order must be made to the Court.
- To obtain a Parental Order, at least one partner of the commissioning couple must be genetically related to the baby and be "domiciled" in the UK.
    - This means that **embryo donation or embryos created with egg AND sperm donors cannot** be used in surrogacy treatments.
    - "Domiciled" does not just relate to where you are living, but where your "permanent home" is. **Unless you are British and have always lived in the UK, you must seek legal advice.**

- Commissioning couples must be married, civil partners or two persons living together as partners.
- The surrogate (and her husband / civil partner if she has one) will also need to give their consent.
- The Court will consider any payments you have made to your surrogate and whether these constitute "reasonable expenses".

Once the Order is granted, you will receive a new birth certificate with your partner's name and your name as the legal parents of your baby.

The role of the HFEA

The HFEA does not regulate surrogacy, but recommends that couples seek legal advice before proceeding with any surrogacy arrangement.

- Find out more about the legal rights of parents and surrogates **(http://www.gov.uk/legal-rights-when-using-surrogates-and-donors/overview).**
- Find out more about how to become a child's legal parents **(https://www.gov.uk/become-a-childs-legal-parent).**
- Read the law on UK surrogacy arrangements **(http://legislation.gov.uk/ukpga/1985/49).**

Surrogacy for Male Couples

Leeds Fertility offer a surrogacy service to male couples who wish to have a family. You may choose either straight surrogacy, where the surrogate is also the biological mother of the child, or you may prefer host surrogacy using donor eggs from another woman. With either option, either your sperm, or your partner's (whichever of you is the intended biological father) will be used to fertilise the eggs. In straight surrogacy, if the sperm is good quality and the surrogate's fallopian tubes are healthy, simple, timed insemination of prepared sperm into the surrogate's womb may be possible. For host surrogacy using donor eggs, IVF will be needed to fertilise the eggs in the laboratory before transferring an embryo to the surrogate's womb. If the quality of the sperm is not of the best, IVF with ICSI (sperm injection into the eggs) may be needed. **(Please see separate IVF/ICSI patient information).**

You will need to find your own surrogate, and the organisations listed on **page 19** may be able to help you. If you wish to use an egg donor, there are a number of ways of sourcing donors. **Please see www.leedsfertilityclinic.co.uk patient information Egg Donation for Recipients**.

As with heterosexual surrogacy, the sperm provider will need to be treated as a 'known sperm donor' and comply with the requirements of the HFEA Code. This will mean the quarantine of your sperm for six months with specific infection screening before and after this period to protect your surrogate from acquiring any of these infections **(See page 11 - What preparations are needed for surrogacy?).**

Couples will need to decide who is going to be the biological father. You may wish to consider the option of creating sibling embryos by using sperm from both partners during the IVF treatment. You must be clear that only embryos created from one partner's sperm can be transferred at a time into the surrogate. Leeds Fertility will recommend counselling to reflect on the implications of this practice.

What about if we want to have surrogacy abroad?

We hope that we will be able to assist you with your surrogacy plans at Leeds Fertility. However we are aware that some couples opt to go abroad for treatment. It is important that you are aware of the legal issues involved.

In UK law, surrogacy is treated as an altruistic act, so paying a surrogate anything more than reasonable expenses is illegal. However, commercial surrogacy is permitted in some other countries. It is very important that you do your research because legal arrangements differ from country to country. Getting your child back to the UK can be a difficult, time-consuming and stressful process. Importantly, even if you are named on a foreign birth certificate as the legal parents of your child, you will still need to apply for a Parental Order when you return to the UK. This is because UK Law recognises the surrogate as the legal parent(s) until you have been granted a Parental Order.

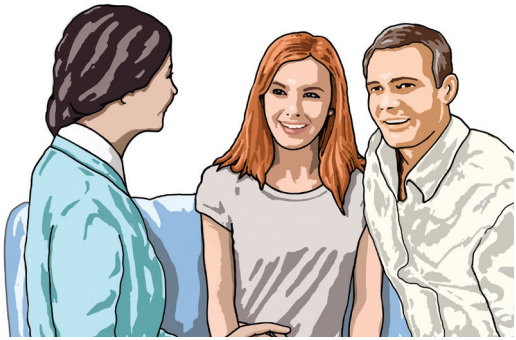
The Foreign and Commonwealth Office have produced guidance for people considering having surrogacy treatment abroad: https://www.gov.uk/government/publications/surrogacy-overseas

Where can I go for advice and support?

Whatever your individual situation, we recognise that surrogacy can be a long and emotionally draining process. The decision to proceed with surrogacy, finding the right surrogate for you, the fertility treatment and outcome followed hopefully by a subsequent pregnancy and delivery of a healthy child are all huge challenges. This is then followed by important legal issues after the birth, which can be very challenging. There will be lots of questions for you to think about at every step of the journey, and then as your child grows up there will be other considerations such as telling them about their origins.

Leeds Fertility offers a dedicated and highly specialised counselling service that will provide care throughout your treatment and prepare you for the future.

Counselling is free and usually delivered on Leeds Fertility premises. Some counsellors offer evening appointments. Please telephone: **0113 206 3100** if you would like to make an appointment with the counselling team.



We specifically require that all parties involved in a surrogacy arrangement undergo implications counselling to fully understand the implications of their actions and choices on all the people concerned, including the child and any existing children.

Useful resources

Surrogacy UK

- **www.surrogacyuk.org**

Brilliant Beginnings

- **www.brilliantbeginnings.co.uk**

Fertility Network UK

- **fertilitynetworkuk.org**

Stonewall

- **www.stonewall.org.uk**

COTS (Childlessness Overcome Through Surrogacy):

- **www.surrogacy.org.uk**

Contact us

By post

- **Leeds Fertility, Leeds Teaching Hospitals NHS Trust, Seacroft Hospital, York Road, Leeds, LS14 6UH**

By Email

- **leedsth-tr.leedsrmuenquiries@nhs.net**

Online

- **Web: www.leedsfertilityclinic.co.uk**

  Patient information books and fee schedule

By telephone

Mon-Fri 08.00-17.00

- **For all NHS appointments: 0113 206 3100**
- **For clinical queries: 0113 206 3102**

Sat-Sun 08.00-12.00

- **Clinical queries only: 0113 206 3102**

In an Emergency

During working hours

- **Please call appointments or clinical queries as needed on the above numbers**

Outside working hours

- **Please call Leeds Teaching Hospitals Switchboard on 0113 243 3144 and request to be put through to the Duty Nurse / Dr for Leeds Fertility**

Questions / Notes



© The Leeds Teaching Hospitals NHS Trust • 1st edition Ver 1.0
Developed by Dr Nadine Ellissa Baskind - Consultant in Reproductive Medicine & Gynaecology and Angela Pericleous-Smith - Senior Counsellor
Produced by: Medical Illustration Services • MID code: 20181001_001/MH

LN004427
Publication date
10/2018
Review date
10/2021