

A guide for gay men and anyone else considering surrogacy!

Surrogacy in the UK



Natalie Gamble and her team at specialist fertility law firm Natalie Gamble Associates are widely known as the UK's leading surrogacy lawyers, having acted for the parents in the UK's first international surrogacy case in 2008 and virtually all the subsequent leading court decisions. They work with clients as diverse as the Human Fertilisation and Embryology Authority, prominent celebrities, and even Coronation Street. Natalie is also known for her gentle and persuasive campaigning, which helped win the right in 2008 for same-sex parents to be named on birth certificates, and more recently, maternity leave rights for parents through surrogacy. Herself a same-sex parent, she is a former Stonewall Hero of the Year nominee, and on the Pink List.

With unique practical experience of all the options available, Natalie and NGA co-director Helen Prosser have also recently launched a non-profit making surrogacy and egg donation agency, Brilliant Beginnings, which helps gay dads review their family building options and guides them through the process.

We Are Family asked Natalie what she would say to gay dads-to-be considering surrogacy.

“The first thing to know is that it really is possible to do surrogacy in the UK – going abroad is one option, but not the only one. You will need to think about who is providing the eggs and sperm, find a surrogate and decide on a fertility clinic. The law here does not allow commercial agencies or advertising for surrogacy, but there are some wonderful non-profit making agencies which can help you find a surrogate. Some gay dads also work with friends or family members.

Many parents are put off by the fact that they cannot sign a binding contract with their surrogate in the UK, but in practice that is almost never a problem. Provided that the arrangement is well set up, experience shows that it is exceptionally unlikely that your baby will not be handed over. The biggest legal issue is, in fact, sorting out parenthood, and that happens after the birth. Your surrogate will initially be your child's legal mother, and you will have to apply to the family court to get your child's birth certificate re-issued in your names. Provided you follow the rules at the start, the process should be straightforward.

The main reason for going abroad is to access professional agency services to help you find a surrogate (and usually a separate egg donor). Gay dads go mainly to the USA (although we have worked with some going to India and other places too) where there are some excellent and experienced surrogacy agencies. You also have more choice in terms of the fertility treatment. We have, for example, helped gay dads who have twins with each of them being a biological father, something which you can't do in the UK in the same pregnancy.

But if you go abroad you need to budget for it, and you need to grapple with the legal issues. Even if you are named as the dads on your child's US birth certificate, you will need to apply to court here to become the parents under UK law. The court looks a lot more closely at international cases, because you will have paid your surrogate and agency a fee and the court has to decide whether to authorise the payments. The good news is that many applications have now been granted successfully, and none have been refused. It makes international surrogacy a much more viable option than it used to be.

While the law does work in practice – both for UK and foreign surrogacy – it is, in our view, far more complicated than it needs to be. We are campaigning for better law which recognises the right people as the parents from the start, so that there are no complicated immigration issues and no 'limbo' period for everyone involved. Things have already improved significantly in recent years – gay dads able to be named on birth certificates together, since 2010 (the law was passed in 2008 but came into full force in 2010), and maternity leave rights due to be introduced from 2015. But there is more to do. Surrogacy is very definitely here to stay and we need law which supports it properly. In the meantime, the trick is understanding how to navigate the system successfully.”

There is a wealth of free information about surrogacy law at nataliegambleassociates.com and information on the practicalities at www.brilliantbeginnings.co.uk

