

and amend the rights and duties of certain parties to prevent abuse of process in civil and family court. It is due to have a second reading on a date to be announced.

Divorce (Financial Provision) Bill

This is a Private Members' Bill starting in the House of Lords and sponsored by Baroness Deech. This Bill would amend the Matrimonial Causes Act 1973 and make provision in connection with financial settlements following divorce. It is due to have a second reading on a date to be announced.

Human Trafficking (Child Protection) Bill

This is a Private Members' Bill introduced in the House of Commons by Peter Bone. The Bill would make provision for the creation of secure safe houses for children that have been subject to human trafficking. It is due to have a second reading on 18 January 2019.

Secure Tenancies (Victims of Domestic Abuse) Bill

This is a Government Bill starting in the House of Lords and sponsored by Lord Bourne of Aberystwyth on behalf of the Department for Communities and Local Government. It completed the committee stage on 24 January 2018. This Bill would make provision about the granting of old-style secure tenancies in cases of domestic abuse. It is due to have its report stage on a date to be announced.

Unaccompanied Asylum Seeking Children (Legal Advice and Appeals) Bill

This is a Private Members' Bill starting in the House of Lords and sponsored by Lord Roberts of Llandudno. The Bill would make provision for unaccompanied asylum seeking children to receive legal advice and for extending the deadline for an unaccompanied asylum seeking child to appeal an asylum decision. It is due to have a second reading on a date to be announced.

Victims of Crime (Rights, Entitlements, and Notification of Child Sexual Abuse) Bill

This is a Private Members' Bill starting in the House of Lords and sponsored by Baroness Brinton. This Bill would make provision for specifying new statutory rights and entitlements for victims of crime under the Code of Practice for Victims of Crime; require elected local policing bodies to assess victims services; increase the duties of the Commissioner for Victims and Witnesses; grant victims the right to request a review of a decision not to prosecute; establish reviews in homicides where no criminal charge has been made; and create an obligation on professions to notify cases of possible victims of child sexual abuse. It is due to have a second reading on a date to be announced.

LexisNexis FamilyPSL

First ever Government guidance on UK surrogacy

The UK Government has issued the first ever official guidance on UK surrogacy, launched on the gov.uk public information portal on 28 February 2018. The guidance comprises two documents: one for parents and surrogates considering entering into UK surrogacy arrangements, and the other for the healthcare workers who care for them.

What has prompted the new surrogacy guidance?

As surrogacy has grown rapidly over the past ten years, the deficiencies of the current law (written in the 1980s) have been highlighted by numerous court High Court judgments. The Law Commission is currently undertaking a review, but since it will take at least 2–3 years to give its recommendations, the Department of Health and Social Care has in the meantime produced this guidance to give clearer public information about UK surrogacy law and practice. The aim is to support those entering into UK surrogacy arrangements

(and the professionals caring for them) with clear information about the law, process and best practice. The Department of Health and Social Care says:

'[The guidance] comes as the numbers of people using surrogacy to become legal parents has significantly increased year on year since 2012. 368 parental orders were awarded in 2016 alone. The increase reflects the broadening diversity of families, with more LGBTQ+ couples and people with fertility difficulties turning to surrogacy. The new guide will be available on GOV.UK and aims to provide these increasing numbers with a recommended route to achieving a successful surrogacy.'

The Government has worked closely with the UK's three non-profit surrogacy organisations (Brilliant Beginnings, COTS and Surrogacy UK) to write the guidance, drawing on real experience from UK surrogates, parents through surrogacy, and the professionals who support them (including us at NGA Law). The collaborative approach taken is very welcome, particularly because surrogacy is an area of law and practice often clouded in myth and misinformation. It means that the guidance is accurate and true to real experience.

What does the guidance say?

The guidance sets out the recommended pathway for UK surrogacy for surrogates and intended parents, starting with a choice of non-profit organisation to work with, followed by careful consideration, putting an agreement in place, conceiving at a UK fertility clinic, following the required legal process to transfer parenthood post-birth, and supporting children born through surrogacy to have a strong sense of identity. Although the guidance recommends working with a UK non-profit organisation and conceiving at a licensed fertility clinic, it also acknowledges that some people enter into 'independent' surrogacy arrangements (which do not involve an organisation) and 'traditional' surrogacy arrangements (where conception takes place by private

insemination rather than at a clinic), while some parents also go overseas.

The law is set out clearly, making people aware that it is a criminal offence in the UK to advertise for a surrogate, or for third parties to arrange surrogacy for profit. The guidance advises on how to mitigate the risks of UK surrogacy (including setting strong foundations and seeking professional help), although makes clear that it is rare for surrogacy arrangements to end in dispute. Specific guidance is given on the issues which should be considered and captured in a surrogacy agreement. There is also clear guidance on the items commonly accepted by the family court as being 'reasonable expenses', as well as an acknowledgment that it is common for an overall sum for expenses to be agreed in advance and spread over the course of the surrogacy journey.

The criteria for applying for a parental order to transfer legal parenthood are set out in detail, and an explanation is given of how the application process works in practice in UK surrogacy cases. The parents' right to leave from work is also set out. Finally, information is given about a range of other 'soft' issues, including the fertility treatment process, hospital and delivery arrangements, and the recommendation that children are told about their origins honestly and from an early age.

The second document is for healthcare professionals. It gives general information about surrogacy and the law, and sets out best practice for supporting surrogates and intended parents before conception, during treatment, in ante-natal care and during and after birth. In essence, the guidance makes clear that surrogacy is a lawful and accepted form of family-building and that all surrogates and intended parents should be treated with due dignity and respect, especially during the post-birth period. Particularly significant is the clear directive that maternity hospitals should support the surrogate and parents if they wish the parents to take responsibility for their child from birth, and that they need not (as is

commonly the case now) require the handover of a surrogate baby to happen in a hospital car park.

What about people going overseas for surrogacy?

The guidance only deals with surrogacy arrangements which take place in the UK, although the parental order statistics now show that more than half of UK parents go overseas to conceive through surrogacy, to countries including the US, Canada, the Ukraine and Georgia, where they can access more secure legal frameworks and professional surrogacy management services. International surrogacy arrangements involve complex legal, practical and ethical issues, and these are not addressed in this guidance which focuses on UK surrogacy arrangements. The guidance is an important first step, but we hope that the Government will in due course extend its work to give clear public information about international surrogacy as well.

What's the wider significance?

The guidance is a welcome Government endorsement of surrogacy as an option for building a family in the UK, saying explicitly:

'Surrogacy is a positive option for those seeking to start a family through assisted reproduction in the UK... The vast majority of surrogacy cases are straightforward, positive and rewarding experiences; disputes between parties are very rare.'

Such a statement is consistent with the UK's long tradition of leading the way on assisted reproduction and support for diverse modern families and same-sex parents, but the open acceptance of surrogacy will be of enormous emotional significance to those personally affected. Health Minister Jackie Doyle-Price said:

'We've created a guide fit for modern society, one which balances the need for emotional support with clear legal explanations, for surrogates and intended-parents alike. We're providing much needed clarity to help people

decide if surrogacy is for them and I am certain that it will become the 'go-to' trusted source for advice and reassurance as ever more people use surrogacy to start families.'

Natalie Gamble
Partner, NGA Law

Surrogacy conference

Cambridge Family Law is holding a conference on the 'Law and Practice of Surrogacy' together with the Academy of European Law (ERA) on 25 and 26 June 2018 at the Faculty of Law of the University of Cambridge, 10 West Road, Cambridge CB3 9DZ. The speakers are:

- Rose-Marie Drury, Senior Associate, Mills & Reeve, Manchester
- Anatol Dutta, Professor at the Ludwig Maximilian University of Munich
- Esther Farnós Amorós, Professor at the Pompeu Fabra University of Barcelona
- Claire Fenton-Glynn, University Lecturer, University of Cambridge
- Deirdre Fottrell QC, Barrister, 1 Garden Court, London
- Susan Golombok, Professor and Director of the Centre for Family Research, University of Cambridge
- Nick Hopkins, Professor at the University of Reading; Law Commissioner, Law Commission of England and Wales, London
- Anne-Marie Hutchinson OBE, QC (Hon), Partner, Dawson Cornwell, London
- Laura Martínez-Mora, Principal Legal Officer, Hague Conference on Private International Law, The Hague (to be confirmed)
- Walter Pintens, Emeritus Professor at the Catholic University of Leuven
- Jane Russell, Barrister, Essex Court Chambers, London
- Jens M. Scherpe, Director of the