

Guideline

Title: Surrogacy

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Scope: Obstetricians, Midwives, MCA's and Nursery Nurses **Document for Public Display: Yes**
To be read in conjunction with the following documents:
Required CQC evidence? Yes **Key CQC Question: Outcome 4, 14**

Disclaimer

Since every patient's history is different, and even the most exhaustive sources of information cannot cover every possible eventuality, you should be aware that all information is provided in this document on the basis that the healthcare professionals responsible for patient care will retain full and sole responsibility for decisions relating to patient care; the document is intended to supplement, not substitute for, the expertise and judgment of physicians, pharmacists or other healthcare professionals and should not be taken as an indication of suitability of a particular treatment for a particular individual.

The ultimate responsibility for the use of the guideline, dosage of drugs and correct following of instructions as well as the interpretation of the published material **lies solely with you** as the medical practitioner.

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Guideline Statement

- The following definitions are commonly used:
- **Surrogate:** the woman who carried the pregnancy
- **Commissioning parents:** those who wish to bring the child up after the birth
- Surrogacy in the UK is controlled by the Surrogacy Arrangement Act (1985), the Human Fertilisation and Embryology Act (2008) and the Review of Surrogacy Law (1998)
- The midwife's duty is to the mother and child and this must come before the interests of any person on whose account the mother is bearing the child
- If the woman hands over the baby at birth, this is legally irrelevant to the baby's status and the surrogate mother and the legal father still have parental rights
- It is important to remember that information about the surrogate mother must not be shared with the commissioning parents throughout the pregnancy, intrapartum and postnatal period unless she provides consent

Executive Summary

The Surrogacy Arrangement Act 1995 defines a surrogate mother as: “A woman who carries a child in pursuance of an arrangement: a) Made before she began carrying the child and b) Made with a view to any child carried in pursuance of it being handed over to and the parental rights being exercised (so far as practicable) by another person or persons”

Surrogacy in the UK is controlled by the Surrogacy Arrangement Act (1985), the Human Fertilisation and Embryology Act (2008) (amended) and the Review of Surrogacy Law (1998). These Acts permit such arrangements under tightly defined circumstances, but prohibit commercial agencies organising surrogacy for profit.

1.0 Roles and Responsibilities

- Midwife – to provide non judgemental care to the surrogate mother, baby and commissioning person and to identify and act on possible safe guarding issues. If the MW feels that he or she needs any further support, they should discuss the case with the lead midwife for safeguarding.
- In some situations, a midwife may suspect a covert surrogacy arrangement and must inform Childrens Social Care and update the MARF
- Named Midwife for Safeguarding/Lead Midwife for Safeguarding & Vulnerable Families – to be aware of all cases of surrogacy and provide support as necessary for any safeguarding issues

2.0 Implementation and dissemination of document

This Guideline is available on the Intranet and has followed the Guideline review process prior to publication

3.0 Processes and procedures

3.1 Antenatal

- When a mother identifies that she is acting as a surrogate mother, the midwife should:
- Inform the Named Midwife/Lead Midwife for Safeguarding
- Complete a MARF and generate a CC and clearly document in Antenatal Management plan
- Discuss intrapartum and postpartum arrangements and care and document a plan of care with the surrogate mother (see Appendix 1 Checklist for Pre-Birth meeting regarding surrogacy)
- If there are any concerns then discuss these with the Named Midwife/Lead Midwife for Safeguarding
- Any anticipated media involvement should be reported to the Head of Midwifery and Chief Nurse

3.2 Intrapartum

- Staff to be aware that where there may be conflict, the midwife must focus her care on the surrogate mother and the baby
- A baby born to a surrogate mother must be registered as her child and the Birth Notification completed with her details
- If the woman hands over the baby at birth, this is legally irrelevant to the baby's status and the surrogate mother and the legal father still have parental rights
- The legal transfer of the baby from surrogate mother to commissioning parent occurs when a Parental Order has been granted by a Court, the Registrar General will make an entry to a separate Parental Order Register, registering the child and cross referencing to the entry in the existing Register of Births

3.3 Postpartum

- The baby must stay with the birth mother
- The commissioning mother may stay with the surrogate
- Routine Postnatal care should be offered to the Surrogate mother.

Prior to a discharge the midwife must:

- Record the name, address and GP of the surrogate mother and the commissioning parents
- Notify the community midwife, GP and Health Visitor at both locations, as both the surrogate mother and commissioning parents with the baby will require a midwife to visit and perform screening

Handover of the Baby

- The simple handing over of a child does not in itself convey any legal rights above and beyond any example of transfer of custody of a child (for example, a grandmother picking a child up from school), the key issue is the child's safety.
- Involvement of the Trust child protection team should be initiated at an early stage and if the Trust is unable to satisfy itself that a child is not at risk as a result of the transfer, then Children's Social Care should be alerted.

4.0 Statement of evidence/references

Human Fertilisation & Embryology Act (2008) Section 27

RCM (1997) Position paper No 18 *Surrogacy: Defining Motherhood*, London: RCM

Surrogacy Arrangement Act (1987) London: HMSO

Brazier M, Campbell A, Golombok S (1998) *Surrogacy. Review for Health Ministers of Current Arrangements for Payments and Regulation*. Report of the Review Team (Brazier Report) London TSO

Family Reform Act (1987) – sections 2-4

DOH (1999) *Consultation on Surrogacy Report, Recommendations Announced*. London: DOH

5.0 Governance

5.1 Record of changes to document

Version number: 5		Date: July 2017		
Section Number	Amendment	Deletion	Addition	Reason
	Reviewed			

5.2 Consultation History

Stakeholders Name/Board	Area of Expertise	Date Sent	Date Received	Comments	Endorsed Yes/No
Matrons			May 2017	No comments	Yes
Head of Midwifery			May 2017	No comments	Yes
Consultant Midwife and Matrons			May 2017	No comments	Yes
Consultants			May 2017	No comments	Yes
Registrars/SHO and Midwives			May 2017	No comments	Yes

5.3 Audit and monitoring

This Guideline outlines the process for document development will be monitored on an ongoing basis. The centralisation of the process for development of documents will enable the Trust to audit more effectively. The centralisation in recording documents onto a Quality Management database will ensure the process is robust.

Audit Criteria	Tool	Audit Lead	Frequency of Audit	Responsible Committee	How changes will be implemented	Responsibility for Actions
a) Referrals made to Children's Social Care b) Birth Registration completed	a) Referral Forms b) Documentation	Supervisor of Midwives and Lead Midwife for Child Protection	Every case of surrogacy	Maternity CIG Group	Action plan to be completed	Supervisor of Midwives and Lead Midwife for Child Protection

appropriately						
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5.4 Equality Impact Assessment

This document has been assessed using the Trust's Equality Impact Assessment Screening Tool. No detailed action plan is required. Any ad-hoc incident which highlights a potential problem will be addressed by the monitoring committee.

Impact	Age	Disability	Race	Gender	Religion or Belief	Sexual Orientation
Do different groups have different needs, experiences, issues and priorities in relation to the proposed Guideline?	No	No	No	No	No	No
Is there potential for or evidence that the proposed Guideline will not promote equality of opportunity for all and promote good relations between different groups?	No	No	No	No	No	No
Is there potential for or evidence that the proposed Guideline will affect different population groups differently (including possibly discriminating against certain groups)?	No	No	No	No	No	No
Is there public concern (including media, academic, voluntary or sector specific interest) in potential discrimination against a particular population group or groups?	No	No	No	No	No	No

Appendix 1: Checklist for Pre-Birth Meeting re Surrogacy

- Presence of birth partners
- Intrapartum care including pain relief
- Emergency situations
- Postnatal care including length of stay and method of feeding
- Parent education for commissioning parents
- Visiting times and security issues
- Plans for handover of baby
- Registration of birth
- Consent for newborn screening and treatment if required
- Plans for Parental or Adoption Order
- Notification to midwives, health visitors, GP in area of commissioning parents residence
- Confidentiality of information including the potential for media interest

This list is not exhaustive and is open to adaptation to meet individual circumstances