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Management of Surrogacy Pregnancies Guideline

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Brief Summary of Document:	Guidance on the Management of Surrogacy Pregnancies
Scope:	To provide all maternity staff working as part of the multi-agency team in Hywel Dda University Health Board with clear guidance to enable the care for pregnant surrogate whilst appreciating the position of the intending (commissioning) parents, and where appropriate involve them in care. 'The term "woman/women" in the context of this document is used as a biologically based term and is not intended to exclude trans and non-binary people who do not identify as women.'
To be read in conjunction with:	<ul style="list-style-type: none"> The Surrogacy Pathway: Surrogacy and the legal process for intended parents and surrogates in England and Wales https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684275/surrogacy-guidance-for-intended-parents-and-surrogates.pdf Care in Surrogacy: guidance for the care of surrogates and intended parents in surrogate births in England and Wales https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684259/surrogacy-guidance-for-healthcare-professionals.pdf

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Owning
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Obstetric Guideline and Audit Group

Reviews and updates

Version no:	New Guideline	Date Approved: 04.06.2019
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Glossary of terms

Term	Definition
BBA	Born Before Arrival
IP	Intended Parents
NBBS	Newborn Blood Spot Screening
NIPE	Newborn and Infant Physical Examination
SIP2	Sharing Information in Pregnancy

Keywords	Surrogate Pregnancy, intending parents, commissioning parents,
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1. Introduction

Some couples may require the assistance of a surrogate in order to create a family. Surrogacy is when a woman carries a child for someone who is unable to conceive or carry a child for themselves. Intended parents are couples who are considering surrogacy as a way to become a parent. They may be heterosexual or same-sex couples in a marriage, civil partnership or living together/co-habiting in an enduring relationship. To apply for a parental order (which is the way that legal parenthood is transferred from the surrogate to the IPs) at least one of the IPs in a couple must be a genetic parent of the child born to them through surrogacy. Intended parents generally prefer to be referred to as the parents of the child.

Surrogates and IPs should be treated in the same way as any other patients accessing healthcare during pregnancy and birth whilst recognising that there may be particular characteristics, such as LGBT+ status, that may require a more tailored approach.

2. Aim

The aim of this policy is to provide the multi-agency team with clear guidance to enable the care for pregnant surrogate women, whilst appreciating the position of the intending (commissioning) parents, and where appropriate involve them in care.

3. Scope

All Maternity areas within Hywel Dda University Health Board.

'The term "woman/women" in the context of this document is used as a biologically based term and is not intended to exclude trans and non-binary people who do not identify as women.

4. Definitions

The Surrogacy Arrangements Act 1985 defines a surrogate mother as, 'a woman who carries a child in pursuance of an arrangement'

- a) Made before she is carrying the child and
- b) Made with a view that any child carried in pursuance of it being handed over to, and parental rights being exercised (so far as practicable) by, another person or persons.

5. Surrogacy

Types of Surrogacy

- **Full Surrogacy** – There is no genetic connection between the baby and the surrogate. The surrogate mother provides the egg. The surrogate mother has no genetic link with the child but gestates embryos usually created from the eggs and sperm of the commissioning parents (or where applicable, donor eggs and/ or sperm).
- **Partial Surrogacy** – This involves the surrogate's egg being fertilised with the sperm of the intended father.

Legal Aspects of Surrogacy

- In the United Kingdom **the birth mother is the legal mother irrespective of the conception method and genetic make-up of the baby.**
- Surrogacy is not prohibited by law. However, surrogacy through commercial arrangements is illegal (Section 2, Surrogacy Arrangements Act 1985).
- It is an offence for a third individual or agency to act on a profit-making basis to organise or facilitate a surrogacy arrangements for another person.

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- Surrogate mothers can, however, receive reasonable expenses from the commissioning (intended) parents, such as maternity clothing, and travel expenses.
- Surrogacy arrangements are not legally binding contracts and therefore either party is free to change their minds at any time.

What if the commissioning (intended) parents change their minds?

- If the commissioning (intended) parents change their minds about taking the child, for example if their circumstances change, the surrogate mother will be legally responsible for the child.
- In the event that the surrogate mother also refuses to take on the responsibility, social services should be contacted in the usual way.

What if the Surrogate Mother changes her mind?

- If the surrogate mother changes her mind and wants to keep the baby, this must be respected. In this situation, the Courts will usually allow her to keep the baby.
- If there is a disagreement between the surrogate mother and the commissioning (intended) parents the Lead for Safeguarding Children should be contacted.

Parental Orders

This allows commissioning (intended) parents the opportunity to become the child's legal parents.

They need to meet the criteria below in order to apply for a Parental Order issued by the Family Proceedings Court in the applicant's home area:

- Over 18
- Commissioning parent must be resident in UK
- At least one of the applicants must be genetically related to the child
- Apply after 6 weeks of birth and before 6 months
- The surrogate parents must consent to the making of the order
- No money other than expenses must have been paid in respect of the surrogacy arrangement
- The child must reside with the commissioning parent
- Under English law once the Parental Order is granted the commissioning (intended) parents will receive a new birth certificate stating that they are the legal parents of the child

6. General guidance

- Health care professionals have a legal duty of care to the surrogate mother and the baby once born.
- The wishes of the surrogate are paramount and the commissioning (intended) parents will only become involved with direct consent from her.

7. Safeguarding Aspects

- Local Authorities are required to make enquiries when they are aware that a surrogacy arrangement exists so as to be satisfied that the baby is not, or will not be, at risk as a result of the arrangement.
- If the surrogacy has been organised through a licensed clinic, assessment of the family in relation to safeguarding will have been undertaken prior to commencement of treatment.

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- Staff booking women who disclose a surrogate pregnancy will be required to establish how the arrangements/treatment was performed and if the clinic was licensed.
- In circumstances where the birth or subsequent arrangements for the baby are not clear, hospital or social work staff may be alerted.
- If there are any concerns about the case a SIP2 should be completed and a file generated following usual procedures.

8. Procedure

- When a member of staff is made aware of a pregnancy as a result of a surrogacy arrangement they must contact the named midwife/doctor or nurse with responsibility for Safeguarding to enable him/her to make enquires or make the necessary enquires to satisfy themselves of the legitimacy of the arrangement i.e. that the treatment was undertaken by a licensed clinic.
- If the treatment has been undertaken by a licensed clinic, local authorities can be assured that the treatment will have been in accordance with the Code of Practice.
- It is advised that written evidence is obtained. The prospective parents may have written confirmation from the licensed clinic.
- Following consultation with the Named Midwife for Safeguarding Children If health professionals are satisfied that the Code of Practice has been followed the local authority need not be informed unless there are other concerns being expressed that might indicate that the child may be a risk.
- Where the circumstances of the conception and subsequent arrangements for the baby are not clear the parents should be informed of the need to inform social services to allow for further enquiries to be made.
- A referral should be made using the appropriate form and faxed to social services in accordance with All Wales Child Protection Procedures 2002. The original referral should then be stored in the SIP file on Labour Ward.
- On receipt of the referral the social services department will make such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare.
- All enquiries will be undertaken in accordance with the All Wales Child Protection Procedures 2002 and Working Together to Safeguard the Welfare of Children 2000.
- In the event of the surrogate mother and prospective parents arriving at hospital without prior booking, when the surrogate mother is in labour, both the Police and Social Services should be informed immediately.
- This will allow for emergency action to be considered to promote the welfare of the child and ensure its immediate safety whilst further enquiries are undertaken.

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9. Antenatal Period

Please refer to the following DoH 'Care in Surrogacy' Guidance:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684259/surrogacy-guidance-for-healthcare-professionals.pdf

1	Birth plan to be completed with the surrogate mother and Commissioning (intended) parents
2	Include full details for the commissioning (intended) parents: <ul style="list-style-type: none">• Their names• Contact telephone numbers• Home address• Name and address of GP
3	Email the plan to: <ul style="list-style-type: none">• Named Consultant Obstetrician• Operational Lead Midwife for Community• Operational Lead Midwife where the surrogate mother intends to give birth• Deputy Head of Midwifery• Named Midwife for Safeguarding• Surrogate mother's GP

Antenatal care

- Planning of care during pregnancy is vital so that the midwife ensures that the surrogate receives the care she requests and requires which may include involvement of the commissioning (intended) parents.
- The community midwife should make contact with the commissioning (intended) parents so she can make an assessment of the commissioning (intended) parents and the home the baby will be going to.
- The community midwife should ensure that she contacts the Maternity Manager for the area the surrogate mother intends to give birth so that a meeting can be arranged which may include the attendance of:
 - √ Community midwife
 - √ Maternity manager
 - √ Surrogate mother
 - √ Commissioning (intended) parents
 - √ Labour Ward Manager
 - √ Postnatal Ward Manager

If necessary the following should also be invited:

- √ Safeguarding Midwife
- √ Consultant obstetrician

During the meeting the following should be discussed and agreed:

- Place of birth.

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- If the surrogate agrees it may be appropriate for the commissioning (intended) parents to be present.
- What happens in the event of BBA.
- Management of labour and birth including pain relief.
- Birth support.
- Do they want to be told the sex of the baby/ cut the cord?
- Skin to skin.
- Method of feeding and immediate care of the baby.
- Labelling the baby- with surrogate mother's details (these could have commissioning (intended) parents details on too)
- Vitamin K and route of administration
- Two sets of part 2 notes one for the baby and one for the surrogate mother
- One red book
- Visiting the ward
- Commissioning (intended) parent staying in the hospital
- Admission to the Neonatal unit
- Consent for treatment for baby
- NIPE examination
- Hearing screening
- NBBS where/ when this will be completed, does the Surrogate Mother need to provide written consent
- Details of the Community Midwife, Health Visitors, General Practitioner for when the baby is discharged
- Exchange of the baby must not occur on Health Board premises
- Parental Order
- Registering the birth- Parental responsibility is joint if not married

10. Intrapartum Period

Refer to the following DoH 'Care in Surrogacy' Guidance:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684259/surrogacy-guidance-for-healthcare-professionals.pdf

- Ensure that the Midwife caring for the surrogate mother is aware of the plan.

11. Intrapartum care

If the surrogate mother agrees the commissioning (intended) parents may be present at birth, but the wishes of the surrogate mother remain paramount.

12. Postnatal Period

Refer to the following DoH 'Care in Surrogacy':

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684259/surrogacy-guidance-for-healthcare-professionals.pdf

- Postnatal Ward staff are aware of the plan
- Check the commissioning (intended) parents discharge details
- Address/email/telephone numbers for the following:

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- √ Community midwives
- √ General Practitioners Surgery
- √ Health visitors

- On discharge ensure both surrogate mother and baby details are sent to the relevant community midwife.
- Inform both the surrogate mother and the commissioning (intended) parents General Practitioner and health visitor

13. Postnatal Care

- Routine postnatal care should be provided to the surrogate mother and baby
- The baby and surrogate mother should not be routinely separated as the surrogate mother has parental responsibility
- Particular care should be paid to her psychological state and additional support offered. Additional postnatal visits may be beneficial and should be decided on an individual basis.
- The commissioning (intended) parents may require additional support relating to baby care and feeding.

14. Monitoring

Any complaints received in relation to equality, diversity or human rights will be addressed on an individual basis and appropriate action taken.

15. References

1) Human Fertilisation and Embryology Act (HFEA) 1990 Parental Orders (Human Fertilisation and Embryology Regulations) 1994: Powers and Duties of Local Authorities, Health Authorities and Guardians ad Litem available at [www.dh.gov.org/enPublicationsandstatistics/LettersSmith's Law and Medical Ethics](http://www.dh.gov.org/enPublicationsandstatistics/LettersSmith'sLawandMedicalEthics) Seventh edition, Oxford University Press.