

Our Guide to: Adoption & Surrogacy



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Adoption & Surrogacy

This legal guide is designed to provide clear, accessible information about the rights, responsibilities, and processes involved in adoption and surrogacy.

Navigating the complex legal landscape of adoption and surrogacy can be an emotional and overwhelming journey for individuals and families seeking to grow through these life-changing options.

Whether you are considering adopting a child, pursuing surrogacy as intended parents, or serving as a surrogate, understanding the legal framework is essential to ensuring a smooth and secure experience. From exploring state-specific regulations to addressing common challenges, this guide aims to empower you with the knowledge needed to make informed decisions and build the family of your dreams.



Contents

What is Adoption?		5
The Adoption Process		6
What is Surrogacy?		8
Surrogacy & the Law		6
Using an International Surrogate		9
Surrogacy Law Reform		10
Who to Contact		11

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What is Adoption?

Adoption is the formal legal process in which the rights and responsibilities relating to a child are transferred to the adoptive parents.

Adopted children no longer keep legal ties with their birth mother and father and become full members of the new family. Once an adoption order has been granted, it cannot be reversed except in very rare circumstances.

Adoption is not a decision to be taken lightly; the process is lengthy, and various checks are needed to ensure a child will be safe and happy. These checks include:

- **Investigating the prospective adoptive parents' childhood**
- **Medical history**
- **Criminal background checks**
- **Contact with former partners**

Not only is this a large decision in itself, but the type of adoption is also important:

Domestic Adoption:

This involves the adoption of a child within England and Wales where the child is either a family member or in the care of the Local Authority

International Adoption:

This is the adoption of a child who is being brought from a country outside England and Wales

Step-Parent Adoption

This involves the adoption of your partner's child.

Foster Parent Adoption

This involves the adoption of a child that you have been fostering.

Local Authority Adoption:

If the child is subject to care proceedings and is being placed for adoption by a Local Authority the process is covered by legal aid.

Surrogacy Adoption

This involves the adoption of the surrogate child by the intended parents, particularly where this is no genetic relation to the child.

The Adoption Process

In England and Wales, there is a two-stage statutory framework in place that takes 6 months to complete:

Stage 1:

1. This involves checks and references with the authorities, as well as people you know. The adoption organisation will contact the police, your local authority, employers (where appropriate), and your landlord or mortgage provider.
2. You will also be invited to preparation classes which are normally held locally and given advice on the effect adoption may have on you. This is in place so you can think about what is involved in adopting a child.
3. Individuals will be asked by the adoption agency to supply the details of people who can comment on your suitability to adopt.
4. The adoption agency will ask you to complete a medical and self-assessment questionnaire.
5. A social worker will inform you verbally, or in writing, if you have successfully moved to stage 2.

Stage 2:

1. This stage involves a social worker visiting your home and talking with you about why you wish to adopt, children you would be best able to care for, and your strengths and suitability.
2. An invitation to comprehensive training in preparation for the adoption will be made available.
3. On completion of the assessment, the social worker will present a report to an Independent Adoption Panel indicating your strengths as an adopter. This panel comprises experienced adopters, people who have knowledge of relevant areas of adoption, and a medical advisor.

Once the panel approves you as an adopter, the adoption agency will begin the search for a child whose needs can be met by you. There are several ways a child can be matched:

- **Local authorities across the UK who are seeking adopters for children in their care.**
- **Through various adoption charities.**

Once a child has been matched, their social worker will make sure that you are well placed to care for the child; initial visits and moving in agreements will be put into place. After a minimum of 10 weeks, as a prospective adopter, you can apply to a Court for an Adoption Order, and this will legally recognise the adoption.



What is Surrogacy?

Surrogacy is an arrangement in which a woman carries a child and gives birth on behalf of another person or couple. There are two different types of surrogacies:

Full Surrogacy:

As defined by the Human Fertilisation & Embryology Authority (HFEA), full surrogacies are when:

- The sperm and egg of the intended parents is used
- The sperm from the intended father and a donor egg is used
- Donor egg and donor sperm is used

Full surrogacy means there is no genetic link between a surrogate mother and baby.

Partial Surrogacy

As defined by the Human Fertilisation & Embryology Authority (HFEA), partial surrogacies are when:

- The egg of a surrogate is used
- The sperm from an intended parent of the baby is used

Surrogacy and the Law

As established by the *Surrogacy Arrangements Act 1985*, the surrogate will always be the child's legal parent at birth. If they are married or in a civil partnership, their spouse will be the child's second legal parent at birth, unless permission was not given.

Surrogacy arrangements are not legally enforceable in the UK therefore both parties must rely on each other to honour the agreement, both in respect of handing over the child and expenses. It is also against the law for a third-party (including solicitor) to negotiate a surrogacy contract for payment.

After the child has been born, parentage can be transferred to the intended parents through one of the following methods:

Parental Orders:

Transferring the rights and obligations of the parentage to the intended parents. At least one of them must have provided the egg or sperm and they must be married, civil partners or living together as a couple.

Adoption:

Where neither of the intended parents is genetically related to the child. An application for parental responsibility through adoption must be submitted in this instance. A registered adoption agency must have been involved in the surrogacy process.

Using an International Surrogate

Going abroad to find a surrogate is fairly common in the UK, but an understanding the legal framework in the country where the arrangement is to take place and where the child will be born is important. It is essential to establish whether surrogacy is permitted in that jurisdiction and whether the intended parents will be legally recognised as the child's parents upon birth.

If recognition is not automatic, it is crucial to identify what steps must be taken and whether these must occur before or after the birth. Equally important is understanding the surrogate's legal status regarding the child at birth, as well as any legal rights that may extend to her spouse if she is married.

The role of any agency involved in the arrangement should also be considered. Agencies often play a pivotal role in matching surrogates with intended parents and may facilitate agreements and communication.

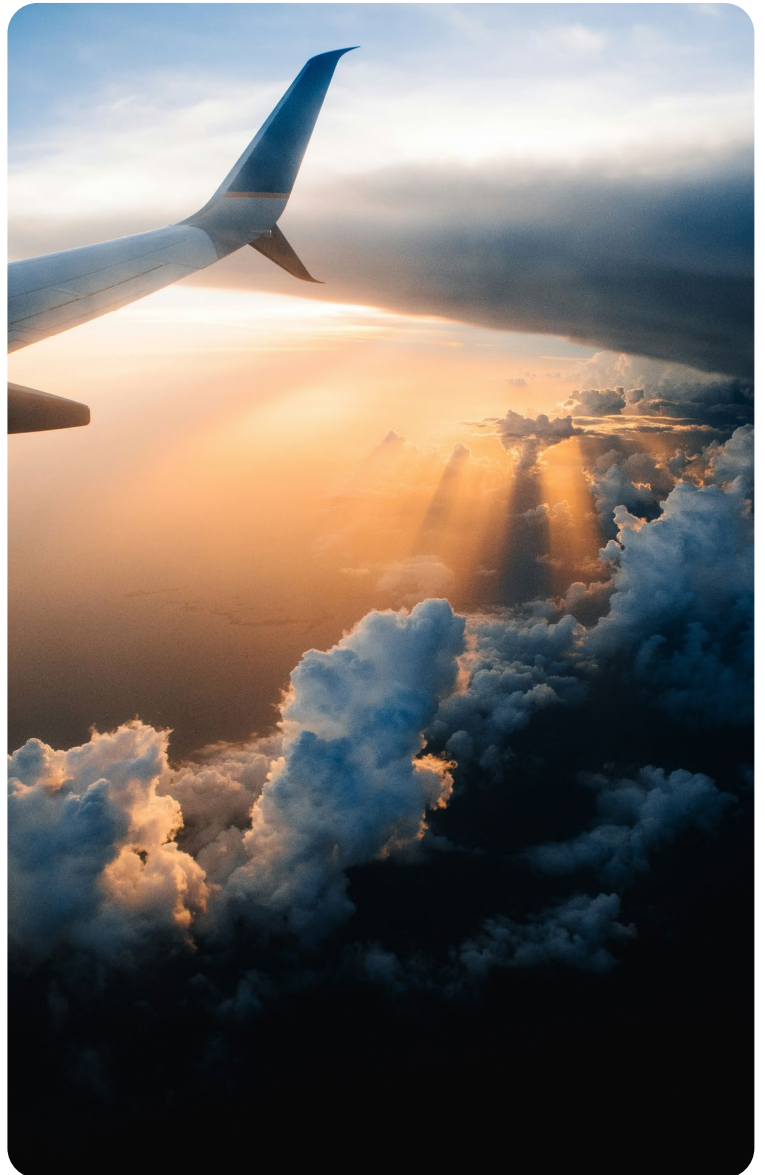
The preparation and support provided to the surrogate warrant careful examination, for example, has she received sufficient information about the arrangement? If she does not speak or read English, measures must be in place to ensure she fully understands any agreements. Furthermore, intended parents should determine whether they will have an opportunity to meet or communicate with the surrogate before committing to the arrangement.

The timing of the agreement between the surrogate and the intended parents is another critical factor. Whether the agreement is formalised before or after the embryo transfer can have legal and practical implications. Similarly, arrangements for ongoing communication between the surrogate and intended parents during the pregnancy and after the birth should be clarified. Will this contact occur directly or through an agency, and what level of interaction is appropriate?

Jurisdictional issues are also significant. Intended parents must know where the embryo transfer will take place, where the surrogate will reside during the pregnancy, and whether the jurisdiction of the child's birth could change.

The child's nationality at birth is another key consideration, particularly when navigating the process of bringing the child to the UK. Parents must identify the steps required to secure travel documentation, estimate the time this process will take, and consider whether separate immigration advice is necessary to ensure the child's safe travel and legal status in the UK.

Finally, maintaining a detailed chronological record of all events and relevant documents is vital. Not only is this essential for any future parental order application, but it also ensures that key information about the child's background and identity is preserved. By addressing these considerations systematically, intended parents can navigate the complex landscape of surrogacy with greater confidence and clarity.



Surrogacy Law Reform

The Law Commission of England and Wales and the Scottish Law Commission conducted a consultation on surrogacy reforms in 2019, culminating in a detailed report in 2023 proposing a comprehensive new framework for surrogacy governance.

The commission has recommended key reforms, including a new pathway to legal parenthood for domestic surrogacy arrangements, allowing intended parents to become the child's legal parents at birth. It is also proposed a surrogacy register to enable individuals born through surrogacy to access information about their origins.

The Department of Health and Social Care confirmed that minister Baroness Meron met with the Law Commission in November 2024 to discuss the report and a draft bill.



Who to Contact?

At Venters Solicitors, we understand that navigating adoption and surrogacy law can be both complex and emotional. Our dedicated legal team is here to provide clear guidance, practical advice, and compassionate support to help you through every step of the process.

Meet the experts who can assist you:



Andrea Dawkins

Andrea is a highly experienced solicitor specialising in family law, with particular expertise in adoption and surrogacy cases. She has supported countless individuals and families through the legal complexities of expanding their family, ensuring a smooth and legally sound process. Andrea is known for her empathetic approach and dedication to securing the best outcomes for her clients.



Helena Aiyudubia

Helena is a skilled solicitor with a wealth of experience in family law matters, including adoption and parental responsibility cases. She is passionate about guiding clients through the legal requirements with clarity and confidence, providing tailored legal solutions to suit their individual circumstances.



Reena Patel

Reena has extensive experience in family law and has helped numerous clients navigate the complexities of adoption, surrogacy, and child arrangements. With a keen eye for detail and a compassionate approach, she ensures that families feel fully informed and supported throughout their legal journey.

If you require advice regarding any of the issues included in this guide, please get in touch with our team by calling [020 7277 0110](tel:02072770110) or emailing info@venters.co.uk



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