



## Introduction

The Surrogacy Act in Western Australia commenced in 2009. This allows couples where the woman is medically unable to carry a pregnancy to have a child.

The surrogate is a third party who has agreed to carry the pregnancy but after birth will relinquish the child to the arranged parents. A surrogate is also known as the birth mother. In the most common situation the embryo contains none of the surrogate's genetic material. The genetic make-up of the embryo comes from the arranged parents. The arranged parents are the couple who intend to raise the child. It is possible that donated sperm, eggs or embryos are used in surrogacy arrangements when necessary.

The surrogacy process in Western Australia is governed by the Surrogacy Act 2008. Also relevant to surrogacy arrangements are the Human Reproductive Technology Act 1991 and the Artificial Conception Act 1985. There are website links to view these Acts on the Concept Fertility Centre website ([www.conceptfertility.com.au](http://www.conceptfertility.com.au)).

All surrogacy applications are submitted to the Reproductive Technology Council for approval (the requirements are listed later).

Surrogacy usually involves an in vitro fertilization (IVF) procedure. The eggs and sperm (gametes) come either from the female and male called the arranged parents or are donated.

The surrogate, also called the birth mother is the woman who will have a fertilised egg put into her uterus with the aim of becoming pregnant and carrying the arranged parent's baby. The arranged parents must find their own surrogate and all surrogacy arrangements need to be approved by the Reproductive Technology Council.

Once approval has been granted the arranged mother will have an IVF cycle using drugs to produce multiple follicles each containing an oocyte (egg). At the optimum time the eggs are collected in the operating theatre and fertilised with the arranged father's sperm.

An embryo may also be created using donated gametes. The embryos that form after this procedure are usually frozen using cryopreservation and stored in tanks at Concept Fertility Centre. At the appropriate time of the birth mother's cycle the embryos are thawed and replaced into the birth mother's uterus.

It is recommended that the arranged parents or gamete donors have a second blood test for Hepatitis B Surface Antigen, Hepatitis C, HIV, HTLV and syphilis six months after the embryos are frozen and that the birth mother wait for the result of that test before having the embryos transferred to her uterus.

Further information on the IVF process is included in the Concept Fertility Centre Patient Information sheets which can be downloaded from our website, collected at Concept Fertility Centre or sent via the mail.

## Who can consider surrogacy?

The surrogacy process may be considered by a woman:

- who has functioning ovaries but no uterus
- who has reproductive tract abnormalities
- who is incapable of carrying a pregnancy for medical reasons
- who has had many unsuccessful attempts at IVF and embryo transfers
- who has a history of repeated miscarriage
- who is eligible to be treated in accordance with the Human Reproductive Technology Act 1991

## What is required to get started?

The evaluation of the infertile couple for gestational surrogacy includes:

- Find a surrogate (refer below).
- Assessment of the arranged mother, her partner and the birth mother by a medical practitioner who can confirm in a written report that these people are suitable to be involved in a surrogacy

A complete medical history from both women by their own gynaecologist.

- An assessment of the arranged parents and birth mother and her partner by two counselors; one counselor from Concept Fertility Centre and a clinical psychologist who conducts psychological testing. Any dependent children over the age of four of either couple may also require an assessment from the Clinical Psychologist, as would gamete and embryo donors. A report from the Clinical Psychologist confirming that all parties are psychologically suitable to be involved in a surrogacy arrangement is required.
- Each participant (including gamete and embryo donors) needs to receive independent legal advice about the possible effects of the surrogacy arrangement. This means the advice is given by separate lawyers.
- Screening tests including blood tests for Hepatitis B, Hepatitis C, HIV, Rubella, Syphilis, HTLV, blood group and antibodies, reproductive hormone levels, and semen analysis.
- Concept Fertility Centre

Council for approval of the surrogacy arrangement.

There is a period of three months termed a “cooling off period” which begins following completion of all assessments and must be completed prior to the Reproductive Technology Council approving a surrogacy arrangement.



## Surrogacy Application Checklist

- Medical practitioner report
- Gynaecologist report
- Suitability and obstetric history of surrogate
- Signed surrogacy arrangement
- Counselling reports
- Clinical Psychologist assessment report
- Legal advice reports

arrangement.

review and submission of documents to the Reproductive Technology

## QUESTIONS AND NOTES

# Considerations

## Psychological Issues

People who are considering surrogacy must have professional counselling prior to proceeding with surrogacy because of the many issues surrounding these processes. It is important that all parties are involved and are comfortable with the procedure as an alternative means of having a family. Resolution of any potentially ambivalent feelings that any party may have needs to be addressed. Issues of confidentiality need to be addressed and the extent of the relationship after birth between child and surrogate and her family must be determined prior to starting treatment. Joint counselling for all parties during pregnancy must occur at 20, 34 weeks and within 14 days after the birth of the child (or miscarriage). The complex ethical, moral and legal issues in relation to each individual surrogacy arrangement need careful consideration before proceeding. There is little known of the long-term psychological effects of surrogacy on the child from surrogacy, the surrogate or other parties involved.



## Legal Issues

There are many legal issues concerning surrogacy and they vary from state to state in Australia. It is

mandatory to consult a family lawyer knowledgeable in this area.

## Costs

Initially there is an administration fee charged for preparation of the surrogacy application and counselling. This cost is non-refundable, irrespective of the outcome. The arranged parents are expected to pay for the out of pocket expenses incurred by the birth mother and her partner. In addition to these preparation costs there are the relevant costs for the IVF egg collection, embryo freezing, and embryo transfer procedure/s as outlined in the Fee Schedule. Obstetric costs will also be incurred and these are rebated by Medicare. However, IVF related procedures used for surrogacy arrangements are not subsidised by Medicare.

## The ideal surrogate:

- is at least 25 years of age
- has previously carried a pregnancy to term without complications
- does not abuse any drugs including alcohol, cigarettes or marijuana
- has a monogamous relationship if she is sexually active
- is healthy, has no known illnesses such as diabetes etc
- is not Rh sensitive (i.e. sensitivity to antibodies that could jeopardise the health of the fetus or the birth mother)

## Who can be a surrogate?

As the Surrogacy Act 2008 in Western Australia stands, neither Concept Fertility Centre nor any other person associated with Concept Fertility Centre can procure a surrogate for any couple. Surrogates usually include relatives or close friends. The Surrogacy Act

2008 states that the arranged couples CANNOT pay for a surrogate. All surrogacy is to be altruistic- this means that the surrogate may not be paid for her services, but she may be compensated for reasonable costs incurred. For example reasonable expenses might include payment for medical expenses including private health insurance, payment of travel or childcare expenses or lost earnings related to receiving treatment or because of pregnancy or birth, purchase of clothing or payment of life insurance coverage during pregnancy.

## Surrogacy approval applications

The application must include the following:

- a copy of the independent gynecological report for the arranged mother giving the reasons why surrogacy is required
- evidence of the age and obstetric history of the surrogate
- evidence of the age of each arranged parent
- a copy of the signed surrogacy arrangement
- a copy of the counselling report for completed counseling
- a copy of the clinical psychologists report for each of the parties including the name of the clinical psychologist who undertook the assessment and the date on which the assessment was completed
- a copy of the written report from each legal practitioner who has provided legal advice about the effect of the surrogacy arrangement. The report must contain the name of the practitioner providing the advice, the name of the person that the advice was given, the date the advice was given and

whether the advice was independent legal advice within the meaning of the Surrogacy Act 2008 a copy of the medical practitioner report for each party stating the name of the medical practitioner who undertook the assessment, the date on which the assessment was completed, details of any concerns the practitioner has about anyone involved in the surrogacy arrangement that may impact on any known medical conditions, details of any medical conditions of the person that may pose a risk to a child born as a result of the surrogacy arrangement and whether the arranged parents are eligible for treatment under the Human Reproductive Technology Act 1991

Once all of these documents have been received the Surrogacy Coordinator will send the application to the Reproductive Technology Council for consideration. There is a three month "cooling off" period which begins when these documents are submitted.

Should you have any questions or need further information please contact the Surrogacy Coordinator at Concept Fertility Centre on 9382 2388.

### Who are the child's legal parents?

Under the Artificial Conception Act 1985 the legal parents are the woman who gives birth and her consenting partner. In surrogacy arrangements a parentage order from the Family Court is required to change the legal parent status. Application for parentage orders are filed in the Family Court and must include a copy of the Reproductive Technology Council approval notification, a marriage certificate (if

any), the child's birth certificate and affidavit evidence as to the facts on the basis of which the court may be satisfied as required by the Surrogacy Act 2008 section 21 (2). In order to apply for a parentage order the arranged parents must reside in Western Australia, at least one of them must have met the requirements to be eligible for an IVF procedure under the Human Reproductive Technology Act 1991 and be at least 25 years of age. A parentage order application cannot be made until the child is at least 28 days old. This gives all parties time to consider the decision of consenting to the making of the parentage order following the birth of the child. The parentage application should be made before the child is six months old.

### Additional Information

- It is important to have a thorough understanding of the legal issues surrounding surrogacy.
- Important legal information:
- Human Reproductive Technology Act 1991
- Surrogacy Act 2008
- Artificial Conception Act 1985
- WA Government Gazette
  - 25th Feb - Surrogacy Regulations 2009
  - 25th Feb - Family Court Surrogacy Rules 2009
  - 27th Feb - Surrogacy Directions 2009

### Surrogacy Enquiries

The Surrogacy Coordinator at Concept Fertility Centre manages all surrogacy applications and all questions. Initial enquiries regarding surrogacy should be directed to the Surrogacy Coordinator.

When starting treatment the programs can be very confusing. **Please make sure to ask if you have any questions - we are all**

**here to help you in any way we can.**

There is also available a list of over 40 Information Brochures related to:

- Infertility investigation
- Assisted Reproduction
- IVF
- ICSI
- FET
- Risk and Side Effects Medications

## Summary

The surrogacy option may offer some people the possibility for parenthood that was previously non-existent. The issues (psychological, ethical, moral and legal) all need careful consideration. Anyone contemplating surrogacy should explore all options, obtain as much information as possible, and seek guidance from counselors, lawyers and fertility specialists in choosing the best path to parenthood.

## Contact Us

Surrogacy Coordinator  
218 Nicholson Road  
Subiaco WA 6008

Telephone: (08) 9382 2388

Facsimile: (08) 9381 3603

[liz@conceptfertility.com.au](mailto:liz@conceptfertility.com.au)

[www.conceptfertility.com.au](http://www.conceptfertility.com.au)