



Heartache for parents during lockdown enforces need to amend UK surrogacy laws

24 July 2020

The unimaginable distress suffered by intended parents prevented by the corona pandemic from travelling overseas to collect their babies born via a surrogate can only emphasise the desperate need for an overhaul of UK surrogacy laws.

Currently in England and Wales, it is still illegal to enter into a commercial agreement with an intended surrogate to pay them to carry a baby.

What this does, of course, is mean British couples look to overseas surrogacy agencies in countries where commercial surrogacy is legal, such as most of the US, including California and Florida, the Ukraine, Russia and, increasingly, Africa.

In a recent Guardian report, it was estimated that as many as 1,000 babies born to surrogate mothers are currently stranded in Russia since the closure of international borders has prevented intended parents from travelling to collect them.

Images in the press of nearly 100 'uncollected' surrogate babies in cots in a hotel in the Ukraine highlighted the plight of intended parents but also reignited concerns around the booming surrogacy industry in the country amid reports of trafficking women to become surrogates in what are known as 'baby factories'. The Ukrainian ombudsman for children's rights is among many calling for a ban on foreigners being allowed to use the country's surrogacy services.

Following bans on international surrogacy in India in 2016, followed by Thailand, Nepal and Cambodia, other locations emerge as international surrogacy hotspots, with African countries such as Nigeria, Kenya and Ghana currently in the spotlight.

Part of the challenge to prevent abuse of women, and intended parents, is the lack of international treaties or conventions for commercial or altruistic surrogacy, plus, of course, people's genuine desperation to find a legal surrogate with whom to have a baby and for that to be manipulated.

Travel restrictions post-lockdown are beginning to ease in some countries, but for intended parents currently engaged in surrogacy arrangements in the US, for example, the travel and quarantine restrictions, combined with the difficulty in obtaining an expedited US passport for the baby, has caused untold cost, stress and upheaval. Meanwhile, travel and quarantine restrictions look set to continue for at least several months.

Intended parents who have been unable to reach the birth in time in the US have also faced the dilemma as to who should best care for the child (in terms of safeguarding their parental rights), until

they arrive? Without a close friend or relative living stateside, special guardians, not the surrogate, are generally appointed to care for the child until the intended parents arrive.

If any good news is to come out of this terrible situation, it must be that UK surrogacy laws are currently under review by the Law Commission and early reports indicate that government proposals will very likely adapt to acknowledge the increasing significance of surrogacy within society and simplify the legal process for all concerned.

The corona pandemic has acerbated the difficulties and heartache facing intended parents that have always existed, albeit to a lesser degree, for those trapped within a legal system that prevents them from pursuing a straightforward surrogacy agreement in their own country.

Read Sarah's comment on surrogacy and covid-19 in [BioNews.org.uk](https://www.bionews.org.uk)

For further information please contact Sarah Williams, Legal Director and Head of Surrogacy, Adoption, Fertility & Modern Family by email or telephone on 020 7693 5821.
