

Information about surrogacy arrangements where the child is not born in the UK.

In proposed surrogacy arrangements, the commissioning couple might not be able to apply for a Parental Order for a number of reasons e.g. they are not married to each other, or neither of them are domiciled in the UK. If the commissioning couple is ineligible for a Parental Order, then the only way in which they can acquire legal parenthood is through adoption.

If the child is born abroad, provided that the commissioning couple are domiciled in the UK, they may apply for a Parental Order.

It is important that patients considering this an option seek their own legal advice before going ahead.

UK law treats everyone as having a domicile of origin from birth; where the parents are married¹ this will be the domicile of the father. Domicile cannot be lost by going abroad for a holiday, or to stay for a period of time, unless there is no intention of returning to the country of domicile.

A domicile of choice can be acquired through a combination of residence and intention to reside permanently in another country which will replace a person's domicile of origin.

If there is in any doubt as to whether this condition can be satisfied, a specialist immigration lawyer should be consulted or alternatively the Home Office may also be able to assist.

Immigration:

If the child is born abroad, the commissioning couple will need to apply for a visa to enable the child to enter the UK while the application for a Parental Order is being processed. **Referral to the Home Office is necessary in *all* cases.**

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¹ If the parents are not married it is not possible to apply for a parental order.