**Decision tree: Legal parenthood in surrogacy arrangements**

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**Scenario 1**
Is the surrogate married or in a civil partnership?

- Yes: The *husband* or *civil partner of the surrogate* will be the legal father or parent of any child born as a result of her treatment, unless:
  - (a) the surrogate and her husband or civil partner were judicially separated at the time of the treatment,
  - (b) it is shown, ‘as a question of fact’ (see Interpretation of mandatory requirements 6I of GN6 of the HFEA Code of Practice), that her husband or civil partner did not consent to her treatment.

- No: The intended father can be the legal father at common law when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

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**Scenario 2**
Has both the intended father provided sperm and the intended female parent provided eggs for the surrogacy treatment?

- Yes: The intended female parent can be the legal parent when the child is born if:
  - (a) both she and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both she and the surrogate are not within prohibited degrees of relationship to each other.

- No: The intended father can be the legal father at common law when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

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**Scenario 2a**
Is the intended parent a male intending to enter a surrogacy arrangement alone using donor eggs (or the surrogate’s eggs) and providing his own sperm?

- Yes: The intended father can be the legal father at common law when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

- No: The intended father can be the legal father at common law when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

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**Scenario 3**
Has donor sperm and the intended female parent’s eggs been used for the surrogacy treatment?

- Yes: The intended father can be the legal father when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

- No: The intended father can be the legal father at common law when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

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**Scenario 4**
Have donor eggs (or the surrogate’s eggs) and the intended father’s sperm been used for the surrogacy treatment?

- Yes: The intended father can be the legal father at common law when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

- No: The intended mother can be the legal parent when the child is born if:
  - (a) both she and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both she and the surrogate are not within prohibited degrees of relationship to each other.

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**Scenario 5**
Are the intended parents a male same-sex couple (of whom one has provided sperm)?

- Yes: Either the biological or non-biological intended father can be the legal father when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

- No: The intended male same-sex couple can be the legal parents when the child is born if:
  - (a) both he and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both he and the surrogate are not within prohibited degrees of relationship to each other.

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**Scenario 6**
Are the intended parents a female same-sex couple (of whom one has provided eggs)?

- Yes: Either the biological or non-biological intended female parent can be the legal parent when the child is born if:
  - (a) both the intended female parent and the surrogate have given the relevant consents
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both the intended female parent and surrogate are not within prohibited degrees of relationship to each other.

- No: The intended female same-sex couple can be the legal parents when the child is born if:
  - (a) both she and the surrogate have given the relevant consent
  - (b) neither consent has been withdrawn (or superseded), and
  - (c) both she and the surrogate are not within prohibited degrees of relationship to each other.
The intended female parent can be the legal parent when the child is born if:
(a) both she and the surrogate have given the relevant consent
(b) neither consent has been withdrawn (or superseded), and
(c) both she and the surrogate are not within prohibited degrees of relationship to each other.

Scenario 7
Is the intended parent a female intending to enter a surrogacy arrangement alone using donor sperm and her own eggs?

Yes

No