

International Family Law, Policy and Practice

**Some Post Brexit Themes in
International Family Law**



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Surrogacy in the United States and England and Wales during a global pandemic

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Introduction

The novel coronavirus, COVID-19, has had a dramatic effect on every corner of the globe, on every part of society. No industry or area of our lives has remained untouched. The past 16-18 months have been unprecedented. Never before has an infectious virus been able to spread so quickly or widely, but globalisation and an increasingly small world created the ideal conditions for a highly contagious disease like COVID-19 to spread like wildfire (well, far better than wildfire as not even the vast oceans could act as fire breaks here).

This article looks specifically at the impact of COVID-19 and resulting restrictions put in place by the US and UK governments in the surrogacy sector, including the ramifications on the medical side of the process as well as the legal process which intended parents and surrogates have to go through in order to ensure rights for the child rest in the long term with the intended parents. Florida attorney, Marla Neufeld, looks at the impact in the United States (including Florida), while Emma Williams, a solicitor in England and Wales, looks at the impact in the USA.

COVID-19 Impact on the surrogacy process in Florida and the United States as a whole

The COVID-19 virus has had a ripple effect through the entire world, and this impact has not spared the Assisted Reproductive Technology ("ART") process in the United States and in Florida, where Marla Neufeld is licensed to practise law. With initial closures of many facets of the

fertility world from fertility clinics, courthouses, and even U.S. and international borders regulating entry to the USA, the entire community needed quickly to pivot to find a way to allow parties to continue building families during these challenging times.

Over time, and as fertility clinics opened up following voluntary and mandated shutdowns, professionals in the USA's ART community have found their stride in traversing the many issues that arise in a third party ART journey caused by the COVID-19 pandemic. The impact has been felt right from the start of the surrogacy matching process through finding a way to travel home from the U.S. with the baby.

The American Society for Reproductive Medicine (ASRM) has adopted the continually evolving guidelines established by the ASRM Coronavirus/COVID-19 Task Force ("Task Force")¹ on best practices for ART during times of COVID-19 and was pivotal in allowing USA fertility clinics to start practising safely again after initial closures.

Medical process impacts

According to many states' definitions, fertility clinics fell into the category of elective healthcare and were required to close for business or drastically limit the types of procedures they performed. Such closures and delays severely impacted on the third party ART world. Without an ability to create embryos, screen egg/sperm/embryo donors, or perform embryo transfers, the reproductive process is simply not possible. Many intended parents had

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Among other organizations, Marla is proudly involved with Men Having Babies, an organization dedicated to providing gay men with educational and financial support to build a family via surrogacy. Marla is also the co-author of the book published by the American Bar Association, *The ABA Guide to Assisted Reproduction: Techniques, Legal Issues, and Pathways to Success*.

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¹ <https://www.asrm.org/news-and-publications/covid-19/>

a huge break in the continuity of their journey; some surrogates were mid-cycle and had to wait indefinitely at this time to continue that cycle.

The closures of fertility clinics were a relatively brief pause of services, as fertility clinics developed the ability to practise medicine safely during the pandemic with the help provided by the refined recommendations of the ASRM. To name a few helpful adaptations in response to COVID-19, the use of telemedicine and digital consultations, which were rarely used prior to COVID-19, has assisted all parties in performing certain appointments without coming into a medical office. Additionally, in-person appointments are now spaced out in a way to allow for safe medical care and efficiency in scheduling cycles.

Even once medical screenings for third party ART were reinstated, COVID-19 continued to impact on the medical reproductive process. For example, when egg donors and/or surrogates were required to travel to an out-of-state fertility clinic for screenings or procedures, some clinics (pursuant to the applicable state law or clinical best practices) required lengthy quarantine periods prior to undergoing medical treatment. When an egg donor and/or surrogate travels, travel expenses and sometimes childcare and lost wages of the donor and/or surrogate are borne by the intended parents so any mandatory quarantine period would add expense to the travel budget for the intended parents. While a typical time period to perform an out-of-state egg retrieval may take 2-3 days of travel for the donor, there were instances where a donor had to be out of town for 2 weeks or more at the expense of the intended parents. As COVID-19 evolves, intended parents considering out-of-state donors or surrogates should speak to their fertility clinic about the possibility of future quarantine requirements to budget for unanticipated expenses in the process.

During the medical consultation process, a huge impact from COVID-19 is the debate about whether an egg donor or surrogate should receive the COVID-19 vaccine or COVID-19 booster shots, and for the parties to understand the risk associated with undergoing a pregnancy during the pandemic.

The ASRM Task Force² : ‘...continues to support both vaccination with currently available vaccines for all individuals, including women who are either pregnant or contemplating conception, and continued strict adherence

to its earlier recommended mitigation strategies for disease prevention, including use of social distancing, and rigorous attention to hand washing, Personal Protective Equipment (PPE), especially masking, and quarantines when appropriate...’

Despite recommendations from the ASRM on COVID-19 vaccines, many parties, be they the surrogate, donor, the intended parents, or all involved, have in some cases expressed reluctance about getting vaccinated; this can present an obstacle to the process if not everyone is on the same page.

Psychological process impacts

As part of any third-party process in the USA, it is best practice established by the ASRM, and in some instances required by state law, for the parties to undergo psychological counselling prior to engaging in third-party ART. Florida does not legally require a psychological counselling session, however it is highly advised, and most fertility clinics will not allow the cycle to proceed without a recent psychological examination.

The increase in popularity of telemedicine has greatly benefited the psychological counselling sessions which are now seemingly exclusively done in a remote capacity or a hybrid remote/in-person session, at least as seen in Florida. The ability to perform remote counselling is beneficial not only to domestic intended parents but certainly to international intended parents who many have difficulties travelling to the United States for purposes of medical and psychological screening.

In pre-pandemic times, it was important for the parties to see eye to eye on the general lifestyle of a surrogate as intended parents cannot micromanage the day-to-day choices a surrogate makes during the surrogacy process. Now more than ever, psychosocial counselling is important to be certain that the parties are on the same page with COVID-19 lifestyle choices; all involved must discuss in great detail various precautions the parties plan to take, including stances on the vaccine. Differences in opinion have the opportunity to arise in a psychological counselling session and it is always better to determine if the match is not right early in the process than too far in when it can cause significant problems.

COVID-19 has understandably created challenges such as job and health insecurity, fear, loneliness, sudden

² <https://www.asrm.org/news-and-publications/covid-19/statements/patient-management-and-clinical-recommendations-during-the-coronavirus-covid-19-pandemic/>.

home schooling obligations, and general burnout and a properly performed psychological counselling session is important to ensure that all parties are stable from a mental health perspective to engage in third party ART. Following the ASRM Task Force's Update #14³, 'a psychological understanding of people's motivations, perceptions, and behaviours will help providers in fertility clinics to develop successful strategies to ensure the safe delivery of reproductive care.'

Legal Process Impacts

The legal process in the United States begins once a donor and/or surrogate is medically and psychologically approved. At the time of starting the legal agreement, the intended parents are on the last step necessary before the fertility clinic will issue a cycle schedule. At this juncture everyone is eager to proceed forward. A challenge seen on occasion presented by COVID-19 is that even following medical approval, and despite all efforts to reduce the risk of sickness, donors or surrogates have in some instances contracted COVID-19 prior to the medical procedure which completely halted the process, causing delay, frustration and worry for the parties.

All of the donor and surrogacy agreements seen in Florida by Marla Neufeld, and from other lawyers around the United States, now include language addressing COVID-19 such as the donor or surrogate agreeing to follow precautions and guidelines from the medical professionals as it relates to staying safe from COVID-19. Such precautions may include mask wearing, social distancing, certain travel restrictions, reporting health updates to the fertility clinic and intended parents, and quarantining from family members if someone gets sick during the process. The legal agreements may also address the parties' preferences on whether the donor or surrogate will receive the COVID-19 vaccine.

It is important for anyone embarking upon third party ART in the United States to speak to an experienced ART attorney in the applicable state to learn about the legal process to confirm the parental rights of the intended parents, and based on COVID-19, what delays they may experience in the court process. Each state has different laws regarding surrogacy and each state has different challenges presented from COVID-19.

In Florida, at the beginning of the pandemic, many

governmental offices completely shut down to the public, such as courthouses and passport and social security offices and were running only on a limited staff. As we all are adapting to a COVID-19 safety protocol, courthouses and the Florida vital records departments are working as quickly as they can and the delays for the legal process in Florida to obtain a Florida birth certificate have dissipated, however such closures are always subject to change. Each state faces its own challenges to the court procedures and vital records closure due to COVID-19, and an intended parent should consult with an attorney in the applicable state to understand what delays they may face in confirming their parentage and ultimately getting a state issued birth certificate.

How an International Intended Parent Can Prepare for Surrogacy Delivery in the United States

For intended parents who are based outside the USA and therefore will need to travel internationally to engage in the surrogacy process, including to be present for the delivery of the child, it is important to start the travel planning process immediately. They will need to determine how the intended parents will be able to make it to the hospital in the United States in time to attend the delivery and have the baby discharged to the intended parents.

Intended parents should keep their surrogacy agency (if any), and ART legal adviser updated on their international travel arrangements to ensure that the delivery process goes as smoothly as possible under the current COVID-19 circumstances. It may be necessary for intended parents to travel to the location of the birth hospital much sooner than anticipated in the event of travel bans or quarantine periods following any international travel.

Hospitals in the United States vary greatly on whether they are allowing support people in the hospital and/or delivery room at the time of birth due to COVID-19. Mandatory quarantine periods also vary between the states. It is important to coordinate the delivery logistics with the surrogate to ensure she is happy to allow the intended parents in the delivery room in the event the hospital limits those allowed to only one person, and to coordinate with the hospital staff to see the applicable hospital protocol on visitors. The rules regarding hospital visitation is constantly changing in Florida; at certain points during the pandemic Florida did not allow any visitors or greatly limited visitors

³ <https://www.asrm.org/globalassets/asrm/asrm-content/news-and-publications/covid-19/covidtaskforceupdate13.pdf>.

in the hospital, even in the delivery room, and surrogates at certain points were required to wear masks during delivery of the baby. Due to a recent surge in COVID-19 cases in Florida around July 2021 due to the Delta variant, Florida hospitals now are starting to impose various regulations and limitations on visitors allowed at the hospital.

Intended parents may need to consider appointing someone with a power of attorney and health care designee located in the United States to take certain actions relating to the birth of their child such as making medical decisions and taking the baby home if they are unable to make it in time to the delivery. The intended parents' U.S. attorney can prepare such documentation, but the applicable hospital may have their own required paperwork to appoint a power of attorney for the intended parents; it is important to coordinate such logistics with the hospital in advance of any birth. If intended parents are unable to make it to the delivery, it may be necessary for the intended parents, the surrogate, and any power of attorney to have a discussion in advance of the birth to determine many of the birth logistics such as:

1. The parties should exchange contact information with one another and with the power of attorney to ensure they can communicate around the time of the birth;
2. Whether the intended parents want the baby to have certain vaccinations at birth;
3. Whether the surrogate is going to pump breast milk (and supplies need to be provided);
4. Whether cord blood is going to be stored;
5. Whether a male infant should have a circumcision performed;
6. Whether the baby can be placed on life support if deemed medically necessary;
7. Whether a surrogate can consent to surgery for the baby in an emergency situation if the intended parents cannot be reached to decide).

COVID-19 Impact on the U.S. surrogacy process involving international intended parents

Every day since the inception of the pandemic the travel restrictions due to COVID-19 are changing globally. The impact this causes is for both international and domestic parents who may have difficulty making it to the birth of their child (either due to travel restrictions,

cancelled flights, or proper legal documentation), and also, may cause difficulties returning home with the child after the birth.

An international intended parent considering surrogacy in the United States should consult with an attorney in their home country for guidance as to what is required of the consulate in the home country to allow the intended parents to travel to the United States, and to determine what legal steps need to be taken once they return to their home country following the USA surrogacy process. An international intended parent may also need to speak to a USA immigration lawyer to ensure that they have the proper documentation to allow for extended visits in the United States for the surrogacy process. Extended stays in the United States may be necessary to accommodate any quarantine period, or in the event the baby requires lengthy medical care while in the United States.

The ability to get a USA passport for the baby after the USA state birth certificate has been issued is an ever-changing process due to COVID-19. Local USA State Department branches have opened and then subsequently closed during the pandemic which impacts on an ability to receive a U.S. passport quickly. As of July 2021, there are still delays with the U.S. passport process with standard and expedited passport processing taking weeks to months to process; emergency passports are issued on a limited basis, and urgent passport appointments, which can take up to 2 weeks to secure, are limited. Emergency and urgent passport appointments also require proof that the intended parents are planning return travel to their home country in a certain time period. International intended parents need to be flexible and prepare for delays in the issuance of a USA passport and should determine a game plan prior to any delivery (subject to changes due to COVID-19) and may need to travel to another city or state within the United States to access a passport appointment as certain cities present greater challenges to making a passport appointment.

International intended parents may consider consulting with a USA passport expediting service well in advance of the anticipated delivery date to guide them through the passport process as quickly as possible based on the closures/restrictions at the time. If obtaining a USA passport is not feasible due to constraints on time or the inability to obtain an urgent or emergency passport

appointment, international intended parents may need to contact their consulate in the United States for the issue of a foreign passport or Laissez-Passer travel document to allow for the baby to return home. Intended parents need to keep in mind that absent signing certain documentation, both intended parents need to be present in the United States for the issue of a USA passport so both of the intended parents need to ensure they have the legal ability to stay in the United States long enough after the birth of the baby and can accommodate such extended travel based on their life circumstance at home.

In a surrogacy matter, the hospital should not issue a social security number linking the baby to the surrogate, so in many instances the intended parents need to apply for a social security number once the birth certificate is issued in the intended parents' names. Some social security offices are closed to the public, but many do still have limited staff. While a social security number is not required for return travel home, intended parents ideally want to process the social security number while still in the United States. It will be a state-by-state and city-by-city analysis whether a social security office is open and/or taking appointments to issue a social security number for the new-born child.

Impact on the surrogacy process in England and Wales

If we cast our minds back to early March 2020, we will recall that COVID-19 was sweeping across Europe like a tidal wave and had started hitting the shores of the United Kingdom. By mid-March, many people were looking at European countries whose leaders were imposing lockdown and restrictions on an almost daily basis and asking not if, but when, will it be our turn for our Prime Minister to address the nation and close everything down. Legal restrictions finally came on 20 March 2020 with the closing of schools, government buildings such as courts, and businesses. Only essential retail such as supermarkets and vital services remained open.

Clearly, similar to the surrogacy process in Florida, the surrogacy and fertility sector in the UK was not going to avoid feeling the impacts of a global pandemic and the unprecedented restrictions brought in by the UK government as a result. There was a 'stay at home' order in place and as such individuals had to have a very good reason to explain why they were out of their home.

One can only imagine the worry this sudden change in our daily lives and threat to our health must have caused many intended parents and surrogates around the country. It was an anxious time for all of us; the fear of the unknown of what a lockdown meant for our lives, livelihoods and liberty was overwhelming at times. The surrogacy process can be nerve-racking enough for intended parents, particularly in the UK where they have no legal rights or certainty prior to the birth of their child. The addition of COVID-19 into the mix must have been a lot to cope with.

Medical process impacts

Like in many US states where assisted reproductive treatments were considered to be elective healthcare, COVID-19 also brought about a temporary halt to assisted reproduction treatment in the UK as well. Even once things were able to reopen and begin moving again, there were additional delays and restrictions around the medical process and new medical risks for all involved, including the professionals assisting the parties as well as the surrogate and intended parents.

The strain placed on the National Health Service ('NHS') and state services in the UK by COVID-19 has been mammoth. Wait times for non-routine surgery in the NHS are higher than they have ever been. Even for private clinics involved in the surrogacy industry, the economic impacts of having to close and then adhere to new guidance regarding social distancing and Personal Protective Equipment ('PPE') etc. has taken its toll. There are naturally now questions about the future sustainability of state funding for assisted reproduction services. The economic impact on private households as well may also have an impact on intended parents' ability to afford private assisted reproduction services. This is at a time where more and more people have started looking to alternative ways to start a family, including via the surrogacy process.

A significant difference between a state like Florida in the US and the UK is that commercial surrogacy is legal in Florida unlike in the UK where it is still banned. There were already significant waiting lists for UK surrogates before the pandemic, in light of the fact that only altruistic surrogacy is legal in the UK. This had already been putting intended parents off waiting to find a UK surrogate and instead turning to other countries to find a surrogate where

commercial surrogacy is legal. Faced with an even greater timescale to start a family, which many intended parents may feel is simply too long for them to wait, particularly if they have already spent years trying to conceive themselves, is only likely to push more intended parents to turn to international surrogacy. One popular place for intended parents from the UK to turn to is Florida in the United States, where surrogacy agreements are binding and enforceable with an established legal framework, waiting times to find a surrogate may be shorter, and there is generally considered to be a sophisticated surrogacy industry in place. Given the fact commercial surrogacy is legal in Florida and also legal in many places in the United States, it can be substantially more expensive however to go through the surrogacy process in the United States compared to in the UK, not just because of travel and accommodation costs of going out there, but the expenses and reimbursements that are paid as part of the overall surrogacy process can end up being far higher.

Increased delays may also cause an increase in intended parents looking to preserve any existing egg and sperm and embryos they already have. This may lead to more freezing in order to maximise their chances of being able to start a family once they eventually find their surrogate, if this could take much longer than pre-pandemic. It may also give intended parents much needed time to address any economic impacts the pandemic has had on their livelihood and household income, and therefore the affordability of the surrogacy process for them. The storing of reproductive cells and subsequent use of frozen eggs, sperm and/or embryos can bring their own legal and practical considerations too which intended parents need to seek advice on in addition to any other professional advice (both medical and legal) they may have previously sought.

For intended parents and surrogates in the UK who had already embarked on the process prior to the pandemic, they still faced some daunting challenges. Most if not all medical appointments and check-ups could only be attended by the individual undergoing the medical treatment, so in this case, only the surrogate. Where intended parents had previously been used to attending all medical check-ups during the pregnancy with their surrogate, this has been a significant change for them. Intended parents commented on how difficult they found this change in particular as until that point they had felt fully involved with the surrogacy process, but now felt somehow

further away from their child than before.

Immediately after the UK government introduced the first lockdown in March 2020, it took hospitals some time to adjust to the pressures they were facing as a result of the high numbers of COVID-19 admissions each day, which had a knock-on effect for other areas such as maternity wards. Some intended parents whose surrogate was due to give birth in the first few weeks following 23 March 2020 would not have been able to be present at the birth of their child.

However, hospitals did get used to the new normal relatively quickly, and many recognised the importance for intended parents to be able to be there for the birth of their child. Many intended parents did not know this for sure *though*. Many had worries such as: *'will we get stopped by a police roadblock on the way to the hospital to ask us why we are out of our homes'* and *'will I need a solicitors' letter to present to police to justify why I am out of my house when on the way to the hospital'* and *'do I need proof I am on the way to the hospital for the birth of my child by a surrogate'*. With hindsight, we now know that this would have been accepted as an essential reason for travel and to be outside your home, but hindsight is a wonderful thing, and we often forget now how unnerving the new laws and restrictions were in the first lockdown.

It came as a relief to many intended parents that, in the end, they were able to attend the hospital for the birth, with the surrogate's agreement, and stay with their baby until they were discharged and could take them home for the first time. Unlike in Florida where intended parents can have peace of mind knowing their parental rights are secure from the moment of birth based on well-established surrogacy laws, for intended parents in the UK, this is an uncertain time anyway, as they do not have any legal rights and are not recognised as the child's legal parents from birth. There would also have been the added worry about the child or surrogate having contracted COVID-19 in the hospital, as hospitals were seeing patients coming in with other conditions and all too regularly catching COVID-19 while they were there. This has been the same in many countries around the world; the threat of contracting COVID-19 for pregnant women has been a concern for scientists and medical professionals, with a fear of the unknown as to how severe pregnant women were likely to experience the virus if they became infected.

Legal Process Impacts

When the UK government announced the closure of

schools and non-essential businesses on 20 March 2020, the courts briefly shut down too. Many Family Court hearings listed in the month immediately following this date were adjourned and as a result the resolution of those proceedings saw a significant delay. Contrast this to Florida where the courts generally quickly adapted to virtual hearings to avoid delays in the surrogacy court proceeding process. However, to the credit of Her Majesty's Courts and Tribunals Service ('HMCTS') and all the people involved in the running of the Family Courts in England and Wales, they had soon put into place an efficient remote hearing protocol that worked well from the start. Very quickly, hearings in the Family Courts were going ahead by telephone or video link to ensure that the parties and their legal teams, as well as the Judge and court staff, could stay at home and avoid having to go to a public building in close proximity to others. Similar to the legal process in Florida, remote hearings have worked very well and ensured the administration of justice has been able to continue smoothly in the Family Courts during the COVID-19 pandemic.

Inevitably, the Family Courts did feel the impact of having to adjourn many hearings at the end of March and early April 2020, as well as seeing many staff have to take sick leave if they contracted COVID-19 themselves and were symptomatic. This has led to longer delays than before in the administrative teams within the Family Courts to process new applications, as well as for the listing office to find the first available date to list hearings. This certainly had an impact on any new applications for a Parental Order and how promptly this process would be able to conclude.

Having said that, the delay and extended timescale for this process from lodging the C51 form (application form for a Parental Order) to commence the proceedings and apply for a Parental Order, to the final hearing, has not been as bad as initially feared and the courts are starting to get back to relative normality.

Likewise, Cafcass, the court appointed social workers who necessarily have to be involved in the Parental Order

application process, have also had to adapt to government restrictions and public health concerns due to the pandemic. During lockdowns where the UK government have put in place 'stay at home' orders, Cafcass have turned to a policy of only remote meetings taking place in order to undertake assessments for their reports. This has meant rather than always being able to arrange a meeting at the intended parents' home, where by the time Cafcass are involved the child will also be living, they have had to speak with the intended parents and see where the child is living via video link. This is not ideal, but ensuring that the Parental Order application process and proceedings could continue to go ahead even when in person meetings were not possible was vital in order to avoid further delays.

The statistics point to the impact COVID-19 has had on the surrogacy process in the England and Wales. Parental Order applications have been on the rise since 2008. In 2009 just 62 births were recorded in the Parental Order register, by 2012 this was up by 211% to 193 and by 2016 it was up again from 2012 by another 61% to 311⁴. In 2019, 444 Parental Orders were granted, which is a very substantial increase when looking back to the numbers around 2008. However, fast forward to 2020, the year of the COVID-19 pandemic, and for the first time the mostly upward trend is stopped in its tracks. In 2020 only 400 Parental Orders were granted⁵, a 9.9% decrease on the previous year.

These figures include both domestic and international surrogacy cases where the intended parents have applied for and been granted a Parental Order in England and Wales. A not insignificant decrease in 2020 therefore makes sense. The logistical challenges for international surrogacy cases which faced additional challenges like travel restrictions and varying COVID-19 rates between countries were unavoidable. Even in domestic cases, potential surrogates' concerns around added health risks with having medical procedures during a pandemic plus multiple government lockdowns, coupled together with delays in the court process, all will likely have resulted in overall lower

⁴ Second Report of the Surrogacy UK Working Group on Surrogacy Law Reform, Surrogacy UK December 2018.

⁵ Ministry of Justice data. <https://inews.co.uk/news/health/number-children-born-surrogacy-triples-past-five-years-43813>.

numbers of Parental Orders being granted.

Comparing this with, for example, the state of Florida in the US, they too saw many governmental offices completely shut down to the public at the beginning of the pandemic, including courthouses, and many offices were running only on a limited staff and/or conducting virtual hearings. While office closures due to COVID-19 in Florida is a constantly evolving determination, many offices and government departments in Florida are currently allowing in-person visits or have adapted with the ability to conduct business virtually or via the mail to allow for the Florida surrogacy process to move as quickly as possible considering COVID-19 delays. The major delay to account for in the United States which international intended parents need to consider is the time it takes to obtain a U.S. Passport for the baby after birth to return home to the UK. The issuance of a U.S. Passport is a federal determination so this has impact on the surrogacy process throughout the entire United States and not just specific to Florida. The U.S. Passport Agency is constantly changing its policies as to intended parents' ability to quickly receive a U.S. Passport and so a potential UK intended parents needs to account for any unanticipated delays it may take to obtain a U.S. Passport after the birth of the baby.

Conclusion

While the surrogacy legal process varies greatly between the UK and the USA, what both countries have in common is that in both the USA and the UK, we are all going to be living with the impact of COVID-19 for decades to come. The economic hit in particular is going to take a long time to recover from; you only have to look at the UK government borrowing, at its highest level since the Second World War⁶, to see this. The fertility sector will no doubt feel the knock-on effects of this for some time, with the NHS struggling to keep providing assisted reproduction services and individuals trying to stabilise their household finances and afford the costs of going through the surrogacy procedure. The UK Family Courts appear to be recovering back to a sort of normal more quickly, which is certainly cause for celebration; at the very least the legal process should remain relatively efficient and timely, to ensure children born to surrogates are not placed in legal limbo for any longer than is necessary.

Only time will tell what the longer term impacts of the Covid-19 pandemic will be on the surrogacy industry, but one thing is certain, in the first 16-18 months of the virus being prevalent, it has had a substantial impact on intended parents, surrogates and children all involved in this process.

⁶ <https://www.bbc.co.uk/news/business-56856195>.

International Family Law, Policy and Practice

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Tables/diagrams and similar

These are discouraged but if used should be provided electronically in a separate file from the text of the article submitted and it should be clearly indicated in the covering email where in the article such an item should appear.

Headings

Other than the main title of the article, only headings which do substantially add to clarity of the text should be used, and their relative importance should be clearly indicated. Not more than three levels of headings should normally be used, employing larger and smaller size fonts and italics in that order.

Quotations

Quotations should be indicated by single quotation marks, with double quotation marks for quotes within quotes. Where a quotation is longer than five or six lines it should be indented as a separate paragraph, with a line space above and below.

All quotations should be cited exactly as in the original and should not be converted to *International Family Law, Policy and Practice* house style. The source of the quotation should be given in a footnote, which should include a page reference where appropriate, alternatively the full library reference should be included.

Cross-references (including in footnotes)

English terms (eg above/below) should be used rather than Latin (i.e. it is preferable NOT to use 'supra/infra' or 'ante/post' and similar terms where there is a suitable English alternative).

Cross-referencing should be kept to a minimum, and should be included as follows in the footnotes:

Author, title of work + full reference, unless previously mentioned, in which case a shortened form of the reference may be used, e.g. (first mention) J Bloggs, *Title of work* (in italics) (Oxbridge University Press, 2010); (second mention) if repeating the reference - J Bloggs (2010) but if the reference is already directly above, - J Bloggs, above, p 000 will be sufficient, although it is accepted that some authors still use "ibid" despite having abandoned most other Latin terms.

Full case citations on each occasion, rather than cross-reference to an earlier footnote, are preferred. Please do not use End Notes (which impede reading and will have to be converted to footnotes by the typesetter) but footnotes only.

Latin phrases and other non-English expressions

These should always be italicised unless they are so common that they have become wholly absorbed into everyday language, such as *bona fide*, *i.e.*, *c.f.*, *ibid*, *et seq*, *op cit*, etc.

Abbreviations

If abbreviations are used they must be consistent. Long titles should be cited in full initially, followed by the abbreviation in brackets and double quotation marks, following which the abbreviation can then be used throughout.

Full points should not be used in abbreviations. Abbreviations should always be used for certain well known entities e.g. UK, USA, UN. Abbreviations which may not be familiar to overseas readers e.g. 'PRFD' for Principal Registry of the Family Division of the High Court of Justice, should be written out in full at first mention.

Use of capital letters

Capital letters should be kept to a minimum, and should be used only when referring to a specific body, organisation or office. Statutes should always have capital letters eg Act, Bill, Convention, Schedule, Article.

Even well known Conventions should be given the full title when first mentioned, e.g. the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 may then be abbreviated to the European Convention. The United Nations Convention on the Rights of the Child should be referred to in full when first mentioned and may be abbreviated to UNCRC thereafter.

Spellings

Words using 's' spellings should be used in preference to the 'z' versions.

Full points

Full points should not be used in abbreviations.

Dates

These should follow the usual legal publishers' format:

1 May 2010

2010–2011 (not 2010-11)

Page references

These should be cited in full:

pp 100–102 (not pp 100–2)

Numbers

Numbers from one to nine should be in words. Numbers from 10 onwards should be in numerals.

Cases

The full case names without abbreviation should be italicised and given in the text the first time the case is mentioned; its citation should be given as a footnote. Full neutral citation, where available, should be given in the text the first time the case is cited along with the case name. Thereafter a well known abbreviation such as the Petitioner's or Appellant's surname is acceptable e.g. *Livesey (formerly Jenkins) v Jenkins* [1985] AC 424 should be cited in full when first

mentioned but may then be referred to as *Livesey* or *Livesey v Jenkins*. Where reference is to a particular page, the reference should be followed by a comma and 'at p 426'.

For English cases the citation should follow the hierarchy of reports accepted in court (in order of preference):

- The official law reports (AC, Ch, Fam, QBD); WLR; FLR; All ER
- For ECHR cases the citation should be (in order of preference) EHRR, FLR, other.
- Judgments of the Court of Justice of the European Communities should be cited by reference to the European Court Reports (ECR)

Other law reports have their own rules which should be followed as far as possible.

Titles of judges

English judges should be referred to as eg Bodey J (not 'Bodey', still less 'Justice Bodey' though Mr Justice Bodey is permissible), Ward, LJ, Wall, P; Supreme Court Justices should be given their full titles throughout, e.g. Baroness Hale of Richmond, though Baroness Hale is permissible on a second or subsequent reference, and in connection with Supreme Court judgments Lady Hale is used when other members of that court are referred to as Lord Phillips, Lord Clarke etc. Judges in other jurisdictions must be given their correct titles for that jurisdiction.

Legislation

References should be set out in full in the text:

Schedule 1 to the Children Act 1989

rule 4.1 of the Family Proceedings Rules 1991

Article 8 of the European Convention for the Protection of Human Rights 1950 (European Convention)

and in abbreviated form in the footnotes, where the statute usually comes first and the precise reference to section, Schedule etc follows, e.g.

Children Act 1989, Sch 1

Family Proceedings Rules 1991 (SI 1991/1247), r 4.1 (SI number to given in first reference)

Art 8 of the European Convention

'Act' and 'Bill' should always have initial capitals.

Command papers

The full title should be italicised and cited, as follows:

(Title) Cm 1000 (20--)

NB Authors should check the precise citation of such papers the style of reference of which varies according to year of publication, and similarly with references to Hansard for Parliamentary material.

Contributions in edited books should be cited as eg J Bloggs, 'Chapter title' (unitalicised and enclosed in single quotation marks) in J Doe and K Doe (eds) 'Book title' (Oxbridge University Press, 2010) followed by a comma and 'at p 123'.

Journals

Article titles, like the titles of contributors to edited books, should be in single quotation marks and not italicised.

Common abbreviations of journals should be used

whenever possible, e.g.

J. Bloggs and J. Doe 'Title' [2010] Fam Law 200

However where the full name of a journal is used it should always be italicised.