

# Surrogacy



Fertility New Zealand is a registered charity supporting people with fertility issues

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Surrogacy is the carrying of a pregnancy for people who are unable to do so themselves. There are two types of surrogacy – traditional surrogacy and gestational surrogacy. With traditional surrogacy, the surrogate uses her own eggs, along with the intended father's or donated sperm. This may be through IUI, IVF, or home insemination.

In gestational surrogacy, the baby carried by the surrogate does not contain any of her genetic material. IVF is necessary in this case, where either the intended mother's egg, or a donor's egg is combined with the intended father's or donated sperm to create embryos and replaced into the surrogate's uterus.

It is now also possible in New Zealand surrogacy to use donated embryos or embryos created from donor eggs in conjunction with donor sperm, if this is deemed to be medically necessary.

We recommend that a clinic is used as it offers safeguards at several levels for all parties involved. You can go to the clinic with the woman who has offered to be your surrogate, or ask a clinic to help you identify strategies for finding a potential surrogate.

## The legal context

People considering surrogacy should contact a fertility clinic who will guide you through the process. ECART (Ethics Committee for Assisted Reproductive Technology) approval is required before the clinic will be able to provide treatment with embryo transfers to a surrogate. Surrogacy in New Zealand must be altruistic although direct expenses can be reimbursed. It is illegal to pay a surrogate.

Surrogacy is legally unenforceable. The birth mother (and her partner, if she has one) is the legal parent from the time of embryo transfer (or insemination) until the intended parents have formally adopted the child after birth.

All parties are required to attend counselling, both together and separately. If the surrogate has a partner, they are also required to attend counselling.

## Requirements

Surrogacy involves a range of requirements which are in place for the protection of all parties, especially the child.

There are medical criteria for all parties involved which must be met.

All parties are required to attend counselling, both together and separately. If the surrogate has a partner, they are also required to attend counselling. This is implications counselling which assists the parties to consider how things will work over the course of the pregnancy and childhood, and prepare for the journey ahead.

There are also legal requirements and both parties need to seek independent legal advice. We recommend that this should be from a lawyer with relevant surrogacy experience. Clinics can provide details for such lawyers.

## Funding

Surrogacy treatment is funded where the woman who wishes to become pregnant does not have a uterus, the chance of carrying a pregnancy is very low using her own uterus, or carrying a pregnancy would be unsafe for her health.

Access to publicly funded treatment for single men, gay couples and for transgender people has not been specifically defined to the same level, but follows the same principles as for



It may also help to connect with others who have created whānau in this way.

Many children have been born – and families created – in New Zealand as a result of surrogacy. Being fully informed and feeling in control of the process will help make the journey as positive as possible, and ultimately, benefit the wellbeing of the child. ■

◀ others – which is a biological cause of infertility (related to the person who wishes to conceive a child), sufficient points on the fertility clinic priority access criteria (CPAC), and the most appropriate treatment which can give a good chance of a child being born. Wait lists are held by the clinics holding contracts for fertility treatment from District Health Boards and are typically 14–16 months for IVF treatment.

The cost of ECART applications and legal fees are not covered by public funding. Clinics can advise of these costs.

## Embarking on a surrogacy journey

It can be difficult to prepare for a surrogacy journey and emotions can sometimes be unpredictable. We recommend that all parties involved in donor conception and/or surrogacy actively seek out a fertility counsellor with thorough experience in the area of donation and surrogacy, and take as many sessions as necessary to gain resolution, confidence and understanding (as applicable). We also recommend that all parties involved in donor conception and surrogacy actively seek out legal advice specific to their situation from a lawyer with related experience.

Please note that the information presented in this brochure is intended only as a brief summary. For specific advice on your particular medical situation you should always consult your professional health care provider.  
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