

Donor conception

Having a child through donor conception

Around one in ten babies born in the UK today are thought to be the result of fertility treatment, and many of those are conceived with the help of egg or sperm donors. This has helped opposite-sex couples with fertility issues to have children they might not have been able to have otherwise and has allowed same-sex couples to become parents. However, it can also lead to a lot of legal hurdles that need to be overcome. So, how do you ensure that you have all of the legal rights and responsibilities of a parent so that you are able to do everything that you need to do for your child?

Legal parenthood

Legal parenthood affects things like a child's inheritance rights and their nationality. It also makes you responsible for the child financially. A child can have at most two legal parents. The woman who carries and gives birth to the child automatically has legal parenthood. This applies even if she is not the child's biological mother – in other words, it was not her egg that was used to conceive the child.

If the child's birth mother is married or in a civil partnership, then her spouse or civil partner will be the child's second legal parent, on the condition that they consented to the fertility treatment that led to the pregnancy. If the birth mother is not married or in a civil partnership, and she and her partner both want to have legal parenthood, her partner will have to acquire it by going through a paperwork process before her fertility treatment starts. It is important to be very careful about this, because there have been a lot of cases where fertility clinics have got this paperwork wrong, creating huge legal problems for parents.

Parental responsibility

Parental responsibility is separate from legal parenthood. In theory, any number of people can have parental responsibility for a child. It is defined as "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and to its property." It includes the right to be involved in making choices about a child's education, healthcare and day to day decisions about their upbringing.

As well as legal parenthood, the child's birth mother will also have parental responsibility. If she is married when the child is born, then her spouse will also have parental responsibility. If she is in a civil partnership when the child is conceived, then her civil partner will have parental responsibility.

If the child's birth mother is not married, and she and her partner, or any other person, both want to have parental responsibility, then the other person will have to acquire it. A male partner can do this by being named as the child's father on the birth certificate, but otherwise the parties will have to complete and sign a written agreement about parental responsibility and get it approved by a judge. It is advisable to consult a solicitor about this.

Disputes over parental responsibility

Sadly, disputes sometimes arise when somebody in a child's life wants to have parental responsibility but, for whatever reason, somebody who already has parental responsibility opposes it. When these disputes happen, there are various approaches that you can try in order to seek a resolution. However, if this is not possible then an application to the court for an order about parental responsibility may be necessary, and we can help you through this process.

For more advice on these issues contact a member of the family team on 0345 128 6960 or email welcome@freeths.co.uk.