

# Kent legal expert shows how UK surrogacy laws have become 'nonsensical'

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In an article in the *Medical Law Review*, Dr Kirsty Horsey, of the University of Kent, describes cases that show current [surrogacy](#) law in the UK is 'fraying at the edges'.

Dr Horsey, a senior lecturer at the University's Kent Law School, says the existing law fails to protect the best interests of children born to surrogates, the families created this way, and surrogates themselves.

In the article, she examines a series of high-profile surrogacy cases decided in 2015 that serve to illustrate how the UK's law on surrogacy - in particular its provisions regarding eligibility for Parental Orders - is not only out of date but also becoming nonsensical.

Without a Parental Order, which the law says must be applied for within six months of birth, the intended parents cannot have legal parenthood transferred to them, and the surrogate remains the legal mother (usually with her spouse or partner being the child's second legal parent).

Consequences include the intended parents technically not having rights to decide on the life, education or medical care needs of the child and problems with succession and inheritance.

She cites cases where the courts have circumvented what the law actually

says should happen, including:

- payments to surrogates authorised despite the law suggesting they should not be;
- a same sex couple awarded care of a 15 month old despite the wishes of the legal mother;
- couples granted a Parental Order despite their children having been born even years earlier.

However, a single man was unable to apply for a Parental Order because only couples may legally do so. The man has launched a human rights challenge against the prohibition, with a ruling expected later this year.

These problems culminate in an evident inability of the law to protect the best interests of children born through surrogacy and indicate strongly a need for reform. Dr Horsey is holding a conference in London on Friday 6 May 2016 entitled Surrogacy in the 21st Century: Rethinking assumptions, reforming law, at the Friends House, Euston Road, where the architects of the existing law will agree reform of the [law](#), which is more than 30 years old, is essential.

**More information:** Kirsty Horsey, FRAYING AT THE EDGES: UK SURROGACY LAW IN 2015, *Medical Law Review* (2016). [DOI: 10.1093/medlaw/fww013](#)

Provided by University of Kent

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