Surrogacy challenges for people living with HIV

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Nothing to declare
Options for conceiving if you are HIV+

- Natural conception
- Assisted conception – with sperm washing?
- Assisted conception with donated eggs/sperm
- Surrogacy
Why surrogacy?

- Social reasons
  - Same-sex male couples
  - Single men

- Medical reasons
  - Different-sex couples
  - Single women
  - More rarely same-sex female couples
Surrogacy options

• Traditional surrogacy
  • Surrogate is the bio mother
  • Conception at home or at a clinic

• Gestational surrogacy
  • Egg provided by intended mother or donor
  • Conception at a fertility clinic
Surrogacy in the UK
HFEA fertility clinic regulation

• Egg/sperm providers must be screened ‘as donors’

• Cannot use HIV+ sperm or eggs with a surrogate at any UK fertility clinic, even if viral load undetectable

• Significant obstacle for UK surrogacy
UK surrogacy options

• Traditional surrogacy with home conception
  – Legal duty not to transmit HIV intentionally or recklessly

• Gestational surrogacy with HIV-eggs/sperm
  – Use HIV-partner’s sperm if a same-sex couple
  – Use donor eggs or sperm
  – Need biological connection with one parent for parental order
Other hurdles

• Shortage of UK surrogates
• Advertising illegal
• Agreements not recognised
• Surrogate and spouse are legal parents
• Post-birth court process
US programmes for HIV+ parents

- US has specific HIV+ surrogacy programmes
- Sperm washing IVF
- Surrogates who are specifically counselled etc and compensated
- Professionally managed by agency, fertility clinic and attorney - costly
US surrogacy: legal issues

- Clear surrogacy legal process in the US:
  - Written agreement
  - Ratified by court order
  - Intended parents on birth certificate

- UK law position
  - Surrogate and spouse are legal parents
  - US birth certificate not recognised
UK law steps required

- Immigration and nationality plan if child born in the US

- Parental order application
  - UK court application post birth
  - Heard by a High Court judge
  - Must have a biological connection
  - Other criteria
  - Extensive evidence required
Welfare assessment

• CAFCASS assessment as part of court application (after the event)

• Considers health issues

• HIV+ status not usually a barrier
For more information....

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