

# Surrogacy guidelines to be issued next month

## Shatter 'hopes to develop legislation in 2012'

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Chief Reporter

MINISTER FOR Justice Alan Shatter is to publish official guidelines next month to assist parents who plan to have children via surrogate mothers abroad in a move aimed at preventing babies ending up in "legal limbo".

However, he was unable to say when long-promised legislation for the wider area of assisted human reproduction would be published.

Mr Shatter told *The Irish Times* that pressure on the Government in drawing up legal changes linked to the EU-IMF bailout meant there was no guarantee of when legislation would be ready.

He said a "consultative process" has begun between officials in the various government departments and hoped significant progress would be made next year.

His comments come at a time of growing concern for the welfare of at least 15 children born by surrogacy abroad who are now either stateless or unable to obtain passports.

One Irish couple who had a surrogate child in the US three years ago - and are still unable to secure legal recognition as the child's parents - are planning to take a case to the European Court of Human Rights over the State's failure to legislate in this area.

The couple, who have declined to be named and have since relocated to London, say their right to family life is being infringed due to the lack of specific legal provisions which allow them to become their child's parents.

"It's difficult to put into the words the stress of all of this," said the child's intended mother (36) who works in London's financial district. "We can't leave Ireland or the US. We're not our daughter's legal parents. As of now, we are minding a US citizen who is regarded as an illegal immigrant in the eyes of the law."

The couple's legal adviser, UK lawyer and international surrogacy expert Anne-Marie Hutchinson, said the couple appeared to have good grounds to take a case

to Europe.

"The key issue is, has Ireland done enough to protect this couple's right to family life," Ms Hutchinson said. "You can't just turn a blind eye to surrogacy. You can make provision for it in law, or make it illegal, but you can't ignore it." There are laws in the UK which allow the intended parents of a child born by surrogacy to become legal parents within six months of the child's birth. However, the Irish couple did not satisfy this requirement.

Ms Hutchinson is a founder of the International Surrogacy Forum, a gathering of legal experts which is lobbying for the introduction of an international convention to give greater protection to parents, children and donors involved in the surrogacy process.

Mr Shatter, meanwhile, laid the blame for the lack of legislation in this area at the door of previous governments and insisted the current administration was committed to putting legislation in place.

"This is a complex area which other countries have addressed, and it's an issue which successive predecessor governments have chosen to ignore," he said. "We hope to develop legislation in 2012... but it's not a straightforward issue and it's important that people understand the legal issues facing them before embarking on surrogacy arrangements." While a previous government established the Commission on Assisted Human Reproduction in 2000 to advise on legislation in this area, nothing has been done since.

Deirdre Madden, a senior law lecturer in UCC and a former member of the commission, said yesterday she was disappointed at the failure to implement the group's 40 recommendations. "It's taking way too long and governments have been a little bit complacent by leaving it to the Irish fertility system's own professional regulations," she said. "These regulations can't resolve issues like the status of children born by surrogacy or the right of access to the identity of sperm or egg donors."

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## 21st century baby

**T**HE FIRST live birth following in-vitro fertilisation (IVF) just over 30 years ago marked the start of a reproductive revolution. It involved fertilising a woman's eggs with sperm, before transferring them back into the uterus a few days later. Today, assisted human reproduction in Ireland is a booming industry. Couples are increasingly choosing to have children later in life, which increases the likelihood of fertility problems. Restrictions on international adoption mean that many would-be parents are exploring other ways of having a child. As a result, up to 3,000 children are born here each year thanks to IVF and other high-tech interventions.

Yet there are no laws to regulate the industry. Ireland is almost alone in Europe in failing to provide any legislation or meaningful regulation. This gap is leaving many families, children and clinicians caught in a complicated web of legal and ethical uncertainty. As documented in Carl O'Brien's 21st Century Baby series in this newspaper, the legislative gaps mean we have stateless children born by surrogacy with no legal parents; hundreds of children born as a result of anonymous donor sperm or eggs who will never know their genetic parents; parents who are forced to go abroad for donor assistance due to the State's failure to provide any certainty for potential donors here.

It is now over a decade since the government established the Commission on Assisted Human Reproduction to advise on how the area could be regulated. Six years ago, the group issued a series of considered recommendations. The government of the day pledged to introduce legislation as a priority issue. But there is still no sign of these proposed regulations.

Drawing up laws to safeguard the rights of children and parents will not be easy. It is confusing ethical terrain. What is right, and what is wrong? What is in the best interests of society? What is in the best interests of the child? We have yet to even grapple with these questions.

In addition, scientific advances are allowing forms of family life that were never possible before: single women or men who have decided, in the absence of a partner, to have a child, or gay couples who are co-parenting. The lack of a debate surrounding support for these family units means we have yet to face up to what, in time, may become one of the most socially influential technologies of the 21st century.

We urgently need our legislators to stop burying their heads in the sand and face up to how society is changing. Its failure to do so means that legal and ethical uncertainty will continue to be a gnawing source of stress for parents, and vulnerable children will be caught up in the fallout.

Ultimately, reproductive science is a testament to what we will do to have the children we love and long for. If anything, the creation of family life will become even more complex with the development of new technologies. Doing nothing is not an option because these issues are not going to go away.

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