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Gay men seeking surrogacy to achieve parenthood

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Abstract Assisted reproduction technologies have developed at an extraordinary rate in recent years. This, combined with the changing landscape of legal, technical and social possibilities, enables gay men to consider their options for fatherhood as new opportunities emerge for them to create families. Media coverage of gay celebrities embracing surrogacy as a way of having a family and high-profile legal cases have raised awareness of surrogacy across the world. However, gay fatherhood achieved through assisted reproduction is a highly under-researched area, both in the UK and internationally. The research that currently exists on gay fatherhood is largely related to gay men who become parents through processes such as adoption and fostering and children conceived through previous heterosexual relationships. Much of this evidence has centred on parenting experiences, the outcomes for children or the legal perspectives. This paper outlines the different types of surrogacy and the legal issues facing gay men who choose this route to parenthood, summarizes the limited research on gay men and surrogacy and discusses gaps in the current knowledge base.

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Introduction

The past 30 years have seen the rapid evolution of many assisted reproduction technologies, which have challenged notions about procreation, parenthood and families and evoked a variety of responses. This changing landscape of legal, technical and social possibilities has provided opportunities for gay men to pursue fatherhood outside the

traditional context of heterosexual relationships (Mallon, 2004). In recent years the number of people having children in the context of a lesbian or gay identity has increased (Tasker and Patterson, 2007). This growing trend has been labelled by the media as the 'gayby boom' (Hari, 2009).

While there is a growing body of evidence regarding the lives of gay and lesbian parents, this is disproportionately devoted to lesbian mothers (Rabun and Oswald, 2009).

The limited research on gay men who become fathers has focused on the quality of parenting and is largely related to men who become parents through adoption and fostering (Hicks, 1996; Riggs, 2007; Wells, 2011) and parenting of children conceived through previous heterosexual relationships (Benson et al., 2005; Bozett, 1989; Power et al., 2010). Over the last few years we have seen a small number of gay celebrities openly using surrogacy to have children. However, the apparently recent development of gay men choosing surrogacy as a route to fatherhood remains under-researched, both in the UK and internationally (Culley et al., 2013). This paper outlines the different types of surrogacy and the legal issues facing gay men who choose this route to parenthood, summarizes the limited research on gay men and surrogacy and discusses gaps in the current knowledge base.

Changes to the landscape for lesbian, gay, bisexual and transgendered parenting

Gay men wishing to become fathers are limited by biological possibilities and therefore always require a 'facilitating other' (Mitchell and Green, 2007). This process requires conscious planning and navigation of options. Some gay men have become fathers via adoption or co-parenting arrangements with lesbian women (Golombok, 2012). Gay men may become 'known' sperm donors for lesbian couples, while in other instances there is no genetic connection with children they co-parent (Luce, 2010; Tasker and Patterson, 2007). Research also suggests that gay men may donate spermatozoa at fertility clinics as a way of staking an identity claim to paternity if they perceive that there are no other options of achieving this (Riggs, 2008; Ripper, 2008).

Despite this apparently increased desire for fatherhood amongst gay male couples, there is limited research examining the men's desires and decisions to parent, and what evidence is available originates predominantly from the USA (Beers, 1996; Berkowitz, 2007; Berkowitz and Marsiglio, 2007; Goldberg et al., 2012; Rabun and Oswald, 2009) and Australia (Dempsey, 2010). Prior research on motivations for pursuing parenthood has primarily focused on heterosexual women (for example, Biblarz and Stacey, 2010) and lesbians (Bos et al., 2003; Lewin, 1993; Touroni and Coyle, 2002), with the majority of women in these studies citing a biological drive as their main motivating factor for parenthood. Male perspectives of procreative desire and decision-making have been previously under-represented in research studies.

In studies exploring heterosexual couples' motivations, the men frequently reported their female partner's strong desire to parent as the influencing factor (Miller, 1994). Studies on lone fathers, who are usually heterosexual, report this responsibility arising due to circumstances such as being widowed or divorced, rather than by choice (Nieto, 1990; Risman, 1986), perhaps reinforcing a broader perception that fathers are traditionally the more distant, less nurturing and less involved parent (Dermott, 2008). However, reproduction is increasingly acknowledged as not solely about the parenting desires of women, and a body of evidence is beginning to emerge which demonstrates that men are becoming more actively involved and engaged with

these decision-making processes (Berkowitz and Marsiglio, 2007; Indekeu et al., 2012; Marsiglio and Hutchinson, 2002).

In contrast to heterosexual men, it has been suggested that gay men do not see how their desire to be a father could ever be actualized (Shernoff, 1996), reflecting an acceptance of society's assumptions that a child should be raised within a heterosexual family (Brinamen and Mitchell, 2008). Bozett (1993) has gone further, suggesting that society perceives the term 'gay father' as an oxymoron, since the identities of 'gay' and 'father' are seen to be mutually exclusive. Much of the early research into gay and lesbian parenting aimed to address concerns about possible negative effects upon children's development, including their psychological health, gender identification and role behaviour (Golombok et al., 2006; Patterson, 1992; Wainwright et al., 2004). Gay men wishing to become fathers were perceived as deviant or paedophiles, or as wishing to reproduce homosexuality (Berkowitz, 2007). However, evidence has shown that the major impact of parenting on child development comes from the quality of parenting rather than the sexual orientation of the parents (Golombok, 2012; Golombok and MacCallum, 2003; Golombok et al., 1997, 2002). More recently, an increasing number of gay men are now viewing parenthood as an expected part of their life course trajectory (Rabun and Oswald, 2009). The proportion of gay men who are parents (by any means) is estimated to be approximately 14% (Fish, 2006).

On 5 December 2005, *The Civil Partnership Act (2004)* came into effect in the UK, allowing couples of the same-sex to have legal recognition of their relationships. According to the *British Association for Adoption and Fostering (2009)*, growing numbers of gay men and lesbians have subsequently entered into joint adoption proceedings, since the *Adoption and Children Act, 2002* (implemented on 30 December 2005) modernized the legal framework for domestic and inter-country adoption. The laws surrounding assisted reproduction technology were amended on 3 November 2008, when the *Human Fertilisation and Embryology Act (2008, as amended)* received Royal Assent. The legal requirement to take account of 'the welfare of any child who may be born as a result of the treatment' including 'the need of [a] child for a father' was replaced with a new mandate to consider the child's need for 'supportive parenting'. In addition, since April 2010, people in same-sex relationships have been able to apply for Parental Orders, allowing them to be treated as parents of children born via use of a surrogate (section 54). After a Parental Order is granted, the original birth certificate is replaced with a new birth certificate which names both intended parents. This enables both men in a same-sex relationship to be recorded as 'parents' (Gamble, 2013).

Combined with the *Equality Act (2010)*, these changes have the potential to secure greater fairness and equality for lesbian, gay and bisexual people across the UK (Stonewall, 2012). The contentious ongoing debate about same-sex marriage, alongside the plan to introduce legislation allowing surrogate parents to be eligible for adoption pay and parental leave, are the latest issues in terms of equality. This historical and social context may enable more people to follow the heteronormative path to parenthood regardless of sexual orientation (Rabun and Oswald, 2009).

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