

ENGLAND AND WALES / JUDGMENT

Mr K & Anor v Mr Z & Anor

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Neutral Citation Number: [2025] EWHC 927 (Fam) IN THE HIGH COURT OF JUSTICE FAMILY DIVISION Royal Courts of Justice Strand, London, WC2A 2LL Date: 16/04/2025 Applicants Respondents Before: MRS JUSTICE KNOWLES

- ----- Between: Mr and Mrs K

- and - Mr and Mrs Z

- -----

- ----- Andrew Powell (instructed by Kingsley Napley LLP) for the Applicants The Respondents did not appear and were not represented Hearing date: 28 March 2025

- ----- Approved Judgment This judgment was handed down remotely at 10.30am on 16 April 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives. MRS JUSTICE GWYNNETH KNOWLES This judgment was delivered in private [and a reporting restrictions order OR transparency order is in force]. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court. MRS JUSTICE GWYNNETH KNOWLES Approved Judgment Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants) Mrs Justice Gwynneth Knowles:

Introduction

2. 3. By an application made in July 2024, Mr and Mrs K invite the court to make a parental order in respect of a little boy called B who was born in January 2024 and is thus 14 months old. B was born in the United States of America following a gestational carrier agreement executed in California. Pursuant to that agreement, an embryo was created using Mr K's sperm and a donor egg. Mrs Z was the gestational surrogate and, alongside her husband, she is a respondent to these proceedings. Both Mr and Mrs Z have consented to the making of a parental order in favour of Mr and Mrs K and, despite receiving notice, have played no active role in the legal proceedings. At the conclusion of the hearing on 28 March 2025, I told Mr and Mrs K that I would make a parental order for B in their favour and give my reasons

for so doing at a later date. This judgment is being reported because it raises an important welfare issue and offers some advice for those who may, in future, engage in a foreign or other surrogacy arrangement. The applicants, Mr and Mrs K, are each aged 72 years and are both retired. It is an undeniable fact that, when B goes to school at the age of 5, they will likely both be 76 years old and both will likely be 82 years old when B starts secondary school. Put starkly, Mr and Mrs K will both be 89 years old when B reaches his majority. They have begun parenting at a time in their lives when, despite their current good health, it is foreseeable that their health will decline and that one or both of them will become seriously incapacitated or die before B reaches his majority. That reality has a direct impact on B's welfare, both immediately and in the not so distant future. In those circumstances, it behoves the court to examine carefully what arrangements have been made to secure B's welfare should incapacity or death befall either of the applicants. 4. I make some further observations on this welfare issue later in my judgment.

Background

5. 6. What follows is a summary of the relevant background. Both applicants are retired and have been married for over 35 years. Desiring to start a family, the applicants experienced difficulties in doing so and Mrs K lost a number of pregnancies by miscarriage. The applicants' first son, A, was born in 1993 following several rounds of IVF treatment. Tragically, A died from cancer in 2020, shortly before his 27th birthday. The applicants described poignantly in their witness statements their loss and grief at A's untimely death. Having taken heart from the stories of other grieving parents who found solace in having other children following the death of a child, Mr and Mrs K decided to embark on a surrogacy journey in the hope of becoming parents once more. Both were adamant in their statements that this was not an attempt either to replace A or to manage their grief. 7. By 2021, Mr and Mrs K had decided to use surrogacy services in California and, following a careful search, had identified a suitable egg donor by autumn 2022. In MRS JUSTICE GWYNNETH KNOWLES Approved Judgment Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants) early 2023, they were matched with Mrs Z who became their surrogate. Mrs Z had already given birth to two children via gestational surrogacy and Mr and Mrs K felt reassured by her experience of the process. Mrs Z became pregnant following an embryo transfer and Mr and Mrs K maintained WhatsApp contact with her throughout her pregnancy, attending ante-natal and scan appointments remotely. As is customary in Californian surrogacy arrangements, Mr and Mrs K obtained a pre- birth order in December 2023, conferring on them exclusive parental and legal parentage status when B was born and excluding any legal or parental rights which Mr and Mrs Z might have had. In early 2024, Mr and Mrs K travelled to California and rented a property in which they expected to spend some weeks prior to B's birth. Thus, they were on hand when Mrs Z suddenly went into labour and B was born a month earlier than expected. He was discharged from hospital into the applicants' care a day after his birth and Mrs Z left hospital shortly thereafter. Mr and Mrs K spent the next 7/8 weeks living in their rented property and caring for B with the

assistance of a maternity nurse. Whilst they were there, they remained in close contact with Mr and Mrs Z. They returned with B to the United Kingdom in early March 2024, B travelling on a US passport and with a US birth certificate naming Mr and Mrs K as his parents. B is a little boy with good health who is developing well. According to the report of the Parental Order Reporter, Ms X, B is an active little boy who is always on the go and is on the brink of taking his first steps. Mr and Mrs K devote themselves to his care, in which they are assisted by a nanny who comes to the family home five days a week. B was observed by Ms X to have a warm and loving bond with both Mr and Mrs K and it was plain to her that Mr and Mrs K adore him. 8. 9. 10.

11. Mr and Mrs K are a wealthy couple and well-established in their local community. They have maintained a good relationship with friends of A, Mr and Mrs Q, a couple in their early thirties who are married with a small child of their own similar in age to B. Surprisingly, Mr and Mrs Q had no idea that Mr and Mrs K had embarked on a surrogacy journey and were informed of B's birth by email in early 2024. Mrs Q described in her statement that this news came as a big surprise and it took her and her husband some time to process this. They eventually met B when he was 6 months old. The applicants approached Mr and Mrs Q in January 2025 and asked them to be B's guardians in the event of their deaths or incapacity. Having reflected on this, Mr and Mrs Q agreed and confirmed their commitment to B in statements provided to the court.
12. Mrs K has a niece, P, who lives with her partner and is now 52 years old. She too had no idea about Mr and Mrs K's surrogacy plans and received the news of B's birth in January 2024. In her statement, P observed: "For a lot of the family, the initial reaction was one of surprise and disbelief. Although I was obviously surprised myself, in all honesty my instinctive reaction was one of happiness for them". P met B for the first time in December 2024 and keeps in touch with Mrs K by WhatsApp. Following an approach from Mr and Mrs K early in 2025, P too has confirmed in a statement that she would be willing to become B's guardian if Mr and Mrs Q were unable to act in that capacity.

Procedural History

MRS JUSTICE GWYNNETH KNOWLES Approved Judgment Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants) 13. 14. The application was made in July 2024 and was the subject of standard case management directions on 5 November 2024. A hearing was listed for either the making of further directions or a parental order. Prior to the hearing, the parental order reporter, Ms X, produced a report recommending that B be made the subject of a parental order in favour of Mr and Mrs K. The application came before me on 28 February 2025. Helpfully, Mr Powell had prepared a comprehensive skeleton argument which acknowledged that, though Mr and Mrs K could, with ease, satisfy the statutory criteria in s. 54 of the Human Fertilisation and Embryology Act 2008 ("the HFEA 2008"), the court would wish to examine the welfare limb of the application with care. Given the regard which a court in these applications is obliged to have to the child's lifelong welfare pursuant to s.1 of the Adoption and Children Act 2002 ("ACA 2002"), I gave further

directions aimed at establishing the arrangements for B's care should either or both of Mr and Mrs K become incapacitated or die. I also made a lives with child arrangements order to clothe both Mr and Mrs K with parental responsibility for B pending the next hearing which was listed on 28 March 2025. I did so because there was no one in this jurisdiction who had parental responsibility for him. The Legal Framework: Parental Orders 15. 16. Notwithstanding the existence of the Californian parental order, in this jurisdiction B's legal mother is Mrs Z and his legal father is Mr Z. Mr and Mrs K have no legal status in relation to B even though they have cared for him since birth. If the court makes a parental order, this will create a lifelong legal parental relationship between B and Mr and Mrs K and extinguish any legal relationship that B currently has with Mr and Mrs Z. An application for a parental order made by two applicants is governed by s. 54 of the HFEA 2008. This provides that the court may make a parental order in respect of a child born through a surrogacy arrangement where (a) such an order meets the child's welfare needs in accordance with s. 1 of ACA 2002 and (b) the following criteria are satisfied:

- (1) The child has been conceived artificially and is genetically related to one of the intended parents (s. 54(1)).
- (2) The intended parents are married, in a civil partnership or living as partners in an enduring relationship (s.54(2)).
- (3) The intended parents have applied for an order within six months of the child's birth (s.54(3)).
- (4) At the time of the application and the making of the order, the child's home has been with the applicants and at least one of the applicants is domiciled in the UK (s.54(4)).
- (5) The intended parents are over 18 years old (s.54(5)).
- (6) The surrogate (and her spouse, if applicable) has given her consent to the making of a parental order and that consent has been given freely, unconditionally and MRS JUSTICE GWYNNETH KNOWLES Approved Judgment Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants) with full understanding of what is involved and that consent has been given more than six weeks after the birth of the child (s.54(6) and s.54(7)).
- (7) The surrogate has been paid no more than reasonable expenses, unless authorised by the court (s.54(8)). 17. The court must also have regard to the welfare checklist set out in s.1(4) of ACA 2002, this checklist (alongside the contents of s. 1 of ACA 2002) having been imported, with minor modifications, into the decision-making process pursuant to s.54 by the Human Fertilisation and Embryology (Parental Order) Regulations 2018. The checklist is as follows:
 - (1) The child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding) (s.1(4)(a)).
 - (2) The child's particular needs (s.1.(4)(b)).

- (3) The likely effect on the child (throughout his life) of having ceased to be a member of the original family and becoming the subject of a parental order (s.1(4) (c)).
 - (4) The child's age, sex, background and any of the child's characteristics which the court considers relevant (s.1(4)(d)).
 - (5) Any harm (within the meaning of the Children Act 1989) the child has suffered or is at risk of suffering (s.1(4)(e)).
 - (6) The relationship which the child has with relatives, with any person who is a prospective carer with whom the child is placed, and with any other person in relation to whom the court considers the relationship to be relevant, including (i) the likelihood of any such relationship continuing and the value to the child of its doing so, (ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop and otherwise to meet the child's needs, and (iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child (s.1(4) (f)).
18. 19. Finally, and relevantly in the context of this case, the court's paramount consideration must be to the child's welfare throughout his life (s.1(2)). I have been guided by the observations made by the former President of the Family Division, Sir James Munby, in paragraph 54 of *Re X (A Child) (Surrogacy: Time Limit)* [2014] EWHC 3135 (Fam) as follows: "A parental order has, to adopt Theis J's powerful expression, a transformative effect, not just in its effect on the child's legal relationships with the surrogate and commissioning parents but also, to adopt the guardian's words in the present case, in relation to the practical and psychological realities of X's identity. A parental order, like an adoption order, has an effect extending far beyond the merely legal. It has the most profound personal, emotional, psychological, social and, it may be in some cases, cultural and religious, consequences. It creates what Thorpe LJ in *Re J (Adoption: Non-Paternal)* MRS JUSTICE GWYNNETH KNOWLES Approved Judgment *Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants)*

[1998] INLR 424 at 429, referred to as the "psychological relationship of parent and child with all its far-reaching manifestations and consequences". Moreover, these consequences are lifelong and, for all practical purposes, irreversible... And the court considering an application for a parental order is required to treat the child's welfare throughout his life as paramount... Parliament has therefore required the judge considering an application for a parental order to look into a distant future."

Submissions

20. What follows is a summary of the submissions on welfare made by Mr Powell on behalf of Mr and Mrs K.
21. Mr Powell drew attention to the entirely positive observations of the parental order reporter, Ms X, who described B as being a "much wanted and much loved and cherished child" whose needs were being met by Mr and Mrs K. In compliance with the court's directions on

28 February 2025, the court now had statements which described the detailed arrangements made for B's care should either of the applicants die or become incapacitated. Mr and Mrs K intended that Mr and Mrs Q would only take over B's care in the event that both of them died. If one of them died, the other would continue to care for B (assuming they did not lack capacity) and would be supported and assisted by a nanny, with B attending boarding school in the longer term. The Wills of both Mr and Mrs K provided for B to be the beneficiary of a discretionary trust following the death of the surviving parent. In the event that one of the applicants became incapacitated, the other would continue to care for B with the support of the nanny. Both applicants had executed Lasting Powers of Attorney in respect of property and finance and health and well-being.

22. Mr and Mrs K had concluded that a special guardianship order would be the most appropriate order promoting B's welfare in the event of the death or incapacity of either or both of them and if either or both of them were unable to care for him. Such an order would not sever the legal relationship between the applicants and B but would clothe the special guardians with an enhanced level of parental responsibility whilst maintaining B's lifelong relationship with Mr and Mrs K if a parental order was made. Mr Powell invited the court to record in an order, separate to the parental order, recitals setting out (a) Mr and Mrs K's nomination of Mr and Mrs Q as special guardians for B in the event of the death or incapacity of both (or in the event of the death of one of the applicants and the incapacity of the other) and (b) Mr and Mrs K's nomination of Ms P as an alternative special guardian should Mr and Mrs Q be unable to act. This order would permit Mr and Mrs K to disclose a copy of it to their nominated prospective special guardians and permit this order to be annexed to any application for a special guardianship or child arrangements order made by either Mr and Mrs Q or Ms P. 23. In the light of the above arrangements, Mr Powell submitted that the court had a comprehensive plan which would be kept under review as B got older and his needs changed. The circumstances of this case were distinguishable from *Re Z (Unlawful Foreign Surrogacy: Adoption)* [2025] EWHC 339 (Fam) in which one of the intended parents was reported to be in their late 60s whilst the other was in their 70s. Finally, it was desirable for children born via surrogacy to have the optimal legal relationship with both of their intended parents, usually by way of a parental order or an adoption. MRS JUSTICE GWYNNETH KNOWLES Approved Judgment *Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants)* order. Those orders would confer important rights and status to B in recognising him as the legal child of Mr and Mrs K. The absence of a parental order would leave Mr and Mrs Z as B's legal parents in this jurisdiction in circumstances where they had no desire to exercise parental responsibility for him. Decision: Section 54 24. As Mr Powell submitted, Mr and Mrs K satisfy the criteria in s.54. B was carried by Mrs Z and Mr K's sperm, alongside a donor egg, was used to create the embryo. Mr and Mrs K are a married couple of many years and they are both plainly over the age of 18. Both of them have a domicile of origin in this jurisdiction which has not been surrendered and B has had his home with them both when the application was made in July 2024 and at the date of this hearing in March 2025. The application was also made within six

months of B's birth. Mr and Mrs Z consented to the making of a parental order on 23 August 2024 by signing the relevant form and their signatures were duly notarised as this was a formal agreement executed outside the United Kingdom.

25. Mr and Mrs K set out the payments made to Mr and Mrs Z and to the surrogacy agency in detail and with commendable transparency in the evidence placed before the court. In sum total, they spent £151,059.68 of which £24,635.59 were costs reasonably incurred. Though the remaining sum requiring the court's authorisation amounts to £126,424.09, this sum is in accordance with the surrogacy agreement entered into with a reputable surrogacy agency in California where such payments are lawful. There has been no abuse of public policy with respect to the payments received by the surrogate of some £61,254: she has received the monies owed to her and those sums were, in a Californian context, not so great as to distort her agency within not only the surrogacy process but also within these legal proceedings. Ultimately however, B's welfare is paramount and overrides these matters because he needs a parental order to recognise and cement his place in his new family. Thus, I authorise the payments made in this case. Decision and Discussion: Welfare 26. 27. Contemplating the matters set out in s.1(4) of ACA 2002 and applying them to the circumstances of this case, it is evident to me that B is a much loved and cherished little boy. He is developing well and has the close and loving relationship with his intended parents which a court hopes to see in a case such as this. I have no doubt that, were B to be capable of verbalising his wishes and feelings, he would tell me that he wanted to live with his mummy and daddy forever because that is how he experiences his relationship with them. Mr and Mrs K dote on B and he has brought much joy into their lives. I accept that Mr and Mrs K recognise just how important it is for B to grow up with a full understanding of how he came to be born and for the circumstances of his birth to be communicated with love and in an age-appropriate way. B also needs to know about his brother, A. Mr and Mrs K will consider taking some specialist advice from a child psychologist as to how they communicate these matters to B and help him understand his place in the family. Importantly, both recognise the benefits for B of having a good relationship with Mr and Mrs Z both generally and specifically about the process of talking to him about his life story. Mr and Mrs K continue to have good MRS JUSTICE GWYNNETH KNOWLES Approved Judgment Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants) contact with Mr and Mrs Z and plan to return to the USA so that B can meet them when he is older. Finally, Mr and Mrs K have committed to telling B about the egg donor who is also a part of his genetic make-up. All of these matters amply satisfy the criteria in s.1(4) of ACA 2002 but all of these matters must be seen through the prism of B's welfare throughout his life. In paragraph 3 of this judgment, I drew attention to the reality of what is likely befall B as a child of very elderly parents, namely the experience of loss and grief through the incapacity or death of one of his parents. That experience may strike B at a time in his childhood when he is ill-prepared to understand or come to terms with it, upending his daily life and placing him in the care of adults to whom he is not emotionally close. No matter how fit a person of Mr and Mrs K's age may be now, health and life itself are undoubtedly at the mercy of an aging process which becomes more ever more

cruel and capricious as the years go by. It is not the purpose of this judgment to moralise about the wisdom of having a baby through surrogacy at an advanced age but this court can and should ensure that the arrangements for that child's future care have been thought about, planned and actioned in case the worst should happen. In this case, despite the care with which Mr and Mrs K had planned and carried out their surrogacy journey, the arrangements for B's care in the event of their death or incapacity had not been given the same attention at the time this application came before the court for what might have been a final hearing. Though there had been some discussion about what might happen with Mr and Mrs Q and, to a lesser extent, with Ms P, it was only after I expressed my concern about the lack of clarity on this issue that matters were eventually resolved by the making of appropriately drafted Wills, Lasting Powers of Attorney, and financial arrangements for B's future care. I have no doubt that Mr and Mrs K had every intention of resolving matters in the way which emerged by the time of the hearing on 28 March but, given their ages, these were matters which should have been addressed some time ago. Having read all the statements and reflected on what was proposed, I am satisfied that the arrangements for B's care should either of his parents die or become incapacitated are appropriate and place his welfare needs front and centre in the short, medium and long term. The preference for a special guardianship order to secure B's place with either Mr and Mrs Q is sensible and preserves legal B's relationship with his parents, Mr and Mrs K. This is not only emotionally and psychologically important for him but also maintains B's entitlement as their son to the financial benefits arising from the Trust which has been created to meet his needs after the deaths of Mr and Mrs K. Thus, standing back and taking a holistic view of B's welfare throughout his life, I am satisfied that I should make B the subject of a parental order in favour of Mr and Mrs K. B needs a parental order to give permanence and security to his care arrangements in circumstances where no one else other than Mr and Mrs K seek to provide lifelong care for him. The absence of a parental order would deny B the social and emotional benefits of the formal and informal recognition of his relationship and family life with Mr and Mrs K. I agree with Mr Powell that the circumstances of this case differ markedly from those in *Re Z (Unlawful Foreign Surrogacy: Adoption)* [2025] EWHC 339 (Fam). Save for the ages of the intended parents, one of whom was in their 70s and the other apparently in their late 60s, Mr and Mrs K's circumstances are very different. First, 28. 29. 30. 31. 32. MRS JUSTICE GWYNNETH KNOWLES Approved Judgment *Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants)* Mr and Mrs K undertook due diligence before embarking on their surrogacy journey, thereby minimising any possible risk or disruption to B after his birth. Their actions were welfare-driven and they did not encounter difficulties that might have jeopardised B's welfare such as immigration problems, questionable parental status and a lack of transparency. In that regard, B immediately acquired US citizenship at birth and was not rendered stateless like the children were in *Re Z*. He was able to return to this jurisdiction with Mr and Mrs K without any difficulty, being the product of a surrogacy arrangement in a jurisdiction where these arrangements were regulated within a clear legal framework. Additionally, B had an established legal relationship with Mr and Mrs K from the moment of his birth in California, they having obtained the appropriate

parentage orders pre-birth. There has also been complete transparency and cooperation by Mr and Mrs K with the individuals and the professionals involved in the entire surrogacy process. I am also satisfied that, unlike in Re Z where concerns were raised about elements of exploitation in the surrogacy arrangements, there is no evidence in this case of either exploitation of the surrogate or indeed exploitation of Mr and Mrs K. I agree with Mr Powell that, on the contrary, this was the quintessential example of an application for a parental order arising out of a surrogacy arrangement executed in the United States and was certainly not an arrangement where the relationship between the surrogate and the applicants was “at arm’s length”. Mr and Mrs K have acted beyond reproach with respect to their conduct and contact with the authorities in California and in this jurisdiction. At the conclusion of the hearing on 28 February 2025, I invited Mr Powell to consider any further guidance the court might give in the light of the welfare issue raised in this case following the decision in Re Z (Foreign Surrogacy) [2024] EWFC 304. In the supplemental skeleton argument submitted for the hearing on 28 March 2025, Mr Powell invited me to consider adding to the list of key issues endorsed by Theis J in Re Z above and the President in Re Z (Unlawful Foreign Surrogacy: Adoption). The list contains key issues that any person considering embarking on a surrogacy arrangement (particularly one that involves the surrogate coming from and/or the child being born in a foreign jurisdiction) should consider before they enter into any surrogacy arrangement. As Theis J observed, it is a non-exhaustive list which can only act as a guide. In his Re Z decision, the President added an additional two issues in respect of i) meaningful engagement with relevant government departments and ii) whether any of the relevant government department should be joined as parties. I have reflected carefully on whether I should add to an already extensive list of issues but it seems to me that consideration of a child’s future welfare in the event of the incapacity of one or both of the intended parents is a matter to which intended parents through surrogacy ought to give careful consideration prior to and following the birth of a surrogate child. Those issues become even more pressing if an application for a parental order is made by a single applicant pursuant to s. 54A of the HFEA 2008. In reality, these are, of course, issues which all parents ought to consider in respect of the future welfare of their child irrespective of the manner in which that child was conceived. The additional issues which I consider should be added to the Re Z list are as follows:

- a) what steps have been taken by the intended parents in relation to estate planning (before and after a parental order is made) in respect of the child’s future 33. 34. 35. MRS JUSTICE GWYNNETH KNOWLES Approved Judgment Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants) welfare;
- b) what steps have been taken by the intended parents in respect of future care and financial arrangements for the child in the event of the incapacity of one (or both) of the intended parents;

- c) what steps have been taken in respect of future care and financial arrangements for the child in the event of the death of one (or both) of the intended parents. 36. The importance of those issues will vary from case to case, but they are likely to be of greater importance for single applicants and for applicants of advanced years. I also urge intended parents of advanced years or single applicants to reflect very carefully indeed on those welfare matters I have highlighted in paragraphs 3 and 28 before they embark on a surrogacy journey and cause a child to be born. It would be prudent if such applicants were to address the arrangements for the care of the child should they die or become incapacitated in the evidence filed in support of an application for a parental order, and if parental order reporters were to enquire about them whilst preparing their report for the court. 37. In conclusion, I have taken the liberty of listing below the Re Z issues, including those added by the President (in italics) and those suggested in this judgment (which are listed last):
- (1) What is the relevant legal framework in the country where the surrogacy arrangement is due to take place and where the child is to be born? Put simply, is such an arrangement permitted in that country?
 - (2) When the child is born, will the intended parents be recognised as parents in that country, if so how? By operation of law or are the intended parents required to take some positive step and, if so, what steps need to be taken and when (pre or post birth)?
 - (3) What is the surrogate's legal status regarding the child at birth?
 - (4) If the surrogate is married at the time of the embryo transfer and/or the child's birth, what is the surrogate's spouse's legal status regarding the child at birth?
 - (5) If an agency is involved what role do they play in matching the surrogate with the intended parents?
 - (6) What information, preparation or support has the surrogate had about any proposed surrogacy arrangement?
 - (7) Does the surrogate speak and/or read English? If not, what arrangements are in place to enable her to understand any agreement signed?
 - (8) Will the intended parents and the surrogate meet and/or have contact before deciding whether to proceed with a surrogacy arrangement?
 - (9) When will the agreement between the intended parents and surrogate be made, before or after the embryo transfer, and what are the reasons for it being at that time? MRS JUSTICE GWYNNETH KNOWLES Approved Judgment Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants) (10) What arrangements are proposed for contact between the intended parents and the surrogate during the pregnancy and/or after the birth? For example, is it only via the agency or can there be direct contact between the intended parents and the surrogate? (11) In which jurisdiction will the embryo transfer take place and in which jurisdiction will the surrogate live during any pregnancy? (12) Can the jurisdiction where the child is to be

born be changed at any stage and, if so, by whom and in what circumstances? (13)What nationality will the child have at birth? (14)Following the birth of the child, what steps need to be taken for the child to travel to the United Kingdom? What steps need to be taken to secure any necessary travel documentation for the child and how long does that take? (15)Will the intended parents need to take any separate immigration advice to secure the child's travel to the United Kingdom and what is the child status once the child has arrived in this jurisdiction? (16)Keeping a clear and chronological account of events and relevant documents is not only important for the purposes of a parental order application but also, importantly, retains key information regarding the child's background and identity. (17)Parties should consider early and meaningful engagement with either or all of HD, DfE and/or DHSC (depending on what the particular issues which have arisen are and bearing in mind the different responsibilities of each), especially where there are, or there are intimated proceedings, in some court or tribunal (for example, the First-tier Tribunal (Immigration and Asylum Chamber)); (18)In particular, that if proceedings are issued in the Family Court, early consideration should be given to the addition of either or all of HD, DfE and/or DHSC (again depending on what the particular issues which have arisen are and bearing in mind the different responsibilities of each) as a party; (19)What steps have been taken by the intended parents in relation to estate planning (before and after a parental order is made) in respect of the child's future welfare? (20)What steps have been taken by the intended parents in respect of future care and financial arrangements for the child in the event of the incapacity of one (or both) of the intended parents? (21)What steps have been taken by the intended parents in respect of future care and financial arrangements for the child in the event of the death of one (or both) of the intended parents?

Conclusion

38. I wish B and Mr and Mrs K every happiness in future. Though the making of a parental order does not change what they feel for him and what he feels for them, it is MRS JUSTICE GWYNNETH KNOWLES Approved Judgment Re B (Foreign Surrogacy: Welfare Issue: Ages of Applicants) nevertheless a cause for celebration. 39. That is my decision.

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