

Guidance for intended parents expecting children through surrogacy in Ukraine

Contents

Home Office/FCDO list	1
Practical advice	2
Visas for pregnant surrogates	2
Emergency Travel Document (ETD) process and logistics	3
Birth certificates	3
Parental order applications	4
List of documents needed for UK travel documents for babies	4
Surrogate consent for UK purposes	6
Contact details for Embassies	7

Home Office/Foreign Office list

The government has asked us to keep a list of all the cases we are aware of and to keep them updated so they can plan to help you. To be included, please email us at hello@ngalaw.co.uk with the following information:

Your full names	
Your contact details	
What is your due date?	
Where is your surrogate now?	
Where are you now? (Is this different to your country of residence) When do you plan to travel?	
What agency are you working with in Ukraine?	
Mother's nationality	
Father's nationality If British, were you born in the UK, born overseas to British parents or naturalised British?	
Is your surrogate married?	



Does your surrogate wish to apply for a visa to come to the UK?	
Is there any other information you think we need to know?	

Practical advice

- Try and establish a direct line of communication with your surrogate as well as your agency and stay in touch so you don't lose contact
- If you need some legal help in Ukraine (or neighbouring countries), let us know and we can try to put you in touch with a lawyer wherever you are
- Plan ahead for who will care for your baby if you can't get there – hospital, agency, surrogate, private nanny/ drivers to meet you at the border
- Stay connected with other parents via WhatsApp/Facebook groups for intelligence on travel logistics
- Keep up today date with any relevant organisations (across all platforms, including social media) for current news e.g.:
 - GOV.UK - <https://www.gov.uk/foreign-travel-advice/ukraine> and sign up for updates here <https://www.gov.uk/foreign-travel-advice/ukraine/email-signup>
 - Growing Families (who are looking to organise safe accommodation for surrogates/new-borns to assist evacuations) - <https://www.growingfamilies.org/>
- Register your presence in Ukraine as soon as possible - <https://www.register.service.csd.fcdo.gov.uk/ukraine-20220121/register-your-presence-in-ukraine-with-fcdo>
- Gather what documents you can now from the list (see below)

Visas for pregnant surrogates

The Home Secretary has agreed to grant special UK visas to pregnant surrogates carrying children for British intended parents. We have successfully made several applications and the process is running very quickly (taking only a few days). Visas granted allow pregnant surrogates (and their children/dependents) to come to the UK for 3 years, with rights to access healthcare, benefits and to work.

The process to be followed will depend on whether your surrogate and her dependants have an international passport, so it would be helpful to know if you are considering this. If your surrogate and/or her dependants only have domestic passports, or other identification documents (such as a birth certificate or ID card) they will still be able to obtain a visa but will need to first enrol their biometrics and we can help organise an appointment at a Visa Application Centre (VAC) to do this quickly. There are VACs in Poland, Hungary, Romania and Moldova (and other international destinations) but there is currently no VAC in Ukraine so if your surrogate is still in Ukraine, you will need plan your route first.

If your surrogate and her family wish to apply for a visa to come to the UK, let us know and we can help you apply.



Emergency Travel Document (ETD) process and logistics

Any child will normally need a passport or Emergency Travel Document (ETD) to cross an international border. An ETD is a temporary passport issued by a British Embassy abroad (operating as part of the Foreign Commonwealth and Development Office) – also known as an emergency passport. We have set out below the process for seeking a UK ETD for your baby so you can bring them home, but if you have other nationalities do explore all your options.

ETDs are not currently being issued in Ukraine, so you will need to make an application from a neighbouring country. Contact the appropriate British Embassy for help (see below for contact details) and do so before the birth if you can for advice on the specifics of your situation. The Embassies/ETD Centre are being helpful and proactive.

ETDs are physical documents (like a passport) which need to be collected/ delivered. In some cases parents have been issued with electronic ETDs (which look like a scan of the photo page of a passport) if they are already in Ukraine with their child when the ETD is issued, and we are working with the government to make sure this does not cause problems at the border when you leave Ukraine.

The ETD Centre will send you an application form and a list of documents to be provided by email (see the list below) and you will be told the process you will need to follow (which may involve an interview). If you have twins, you will need an ETD per child. These applications are currently running very quickly, only taking a day or two once all documents have been received.

Once in touch, the Embassy will ask HM Passport Office to approve any request for an ETD. They will also check with the Home Office about British citizenship for your child – if your surrogate is married, the intended mother only is British, or the biological father is British by descent, then the Home Office will need to formally grant British nationality to your child too via a British nationality ‘registration’ certificate. Please ask us for help if you need to do this, as it involves a separate application and we can help you.

As part of the application form, you will need to provide your travel plans. This would normally include a booked trip, however we understand this is not possible and so hope the FCDO will again be flexible about this but you will need to think about what this will look like (for example, what borders you will need to cross/ countries you will transit). The ETD is valid for ‘one trip’ to a specific destination but can include passing through multiple countries. The ETD would usually have printed on it any dates for travel, but again in these circumstances this may be broad (although not indefinite). The ETD will likely be taken from you at the border when you arrive at your final destination.

We are currently collating information on how to submit full UK passport applications with HM Passport Office once your child is born and you are home. We will share this with you once we have more information, but you will be able to apply for a full UK passport for your child.

Birth certificates

If your surrogate has left Ukraine and gives birth in another country, you may not receive a birth certificate as you expected naming you both as parents. In Poland, for example, the birth certificate will record your surrogate as the mother and (assuming she declares herself as unmarried) the biological father as the father. The same applies if your surrogate gives birth in the UK.

From a UK perspective, what the birth certificate says does not matter. For UK law purposes your surrogate is treated as your child’s legal mother in any event until her status is extinguished by your parental order (after which you will obtain a UK birth certificate with both your names on it). You will also be able to obtain an ETD with whatever birth certificate (or other documentation) you have.



Parental order applications

Wherever your child is born, you will need to make a parental order application (to the UK Family Court) to become the legal parents of your child for UK law purposes. This is the court order which will make you the legal parents for UK law purposes, extinguish your surrogate's status as the legal mother, and trigger the issue of a British birth certificate for your child which names you as the parents.

The court process typically takes 6-12 months and should be started within six months of the birth. The family court will be flexible if the usual documents cannot be provided, since their paramount consideration is your child's welfare. However, try to maintain a direct line of communication with your surrogate, since you will normally need to serve her with documents and obtain her written consent to your parental order application at a later stage.

If you would like further advice on the court process and what information you will need for this, please let us know.

List of documents needed for UK travel documents for babies

1.	<p>Your child's local birth certificate, with English translation</p> <p>A hospital/medical birth certificate will be accepted for the ETD application if it is not possible to get an official birth certificate (we understand this is not currently possible in Ukraine). As set out above, it does not matter who the birth certificate names as the parents.</p>
2.	<p>Your full UK birth certificates or naturalisation/registration certificates (evidence of your British nationality)</p> <ul style="list-style-type: none"> • If you were born in the UK, send your British long form birth certificates • If you became British later, send your British naturalisation or registration certificates <p>If you cannot find your birth or naturalisation certificates, you can order replacements here: https://www.gro.gov.uk/gro/content/certificates/default.asp https://www.gov.uk/get-replacement-citizenship-certificate.</p> <p>It is also possible to be British 'by descent' (which means that you were not born in the UK or naturalised/registered as British, but were born overseas to British parents). If you are British by descent, let us know as we will need to advise further on the specifics of your situation and the documents you will need to provide.</p>
3.	<p>If you are under the age of 39 (you were born after 1 January 1983) and you were born in the UK, details of a grandparent's (i.e. your parents') British nationality.</p> <p>If you are under the age of 39 (born after 1 January 1983) and you were born in the UK, you will need to ask one of your parents for their full UK birth or naturalisation/registration certificate or, if they were not British when you were born, evidence of them having had indefinite leave to remain at the time of your birth. If you are using your mother's documents and she changed her name, you also need to show her marriage certificate.</p>
4.	<p>All passports held by you (British/non-British)</p> <p>Ideally provide a full colour copy of every page including the front and back covers, otherwise just the photo page.</p>
5.	<p>Your marriage certificate</p>



6.	<p>Passport style photo of your child</p> <p>You can provide a digital passport photo of your baby following the guidance here: https://www.gov.uk/photos-for-passports</p>
7.	<p>If you have already applied for a UK passport for your child the online (PEX) application number.</p> <p>You cannot currently apply for a UK passport if your child is in Ukraine, but if you are in a neighbouring country and it is possible to do so, we would recommend you make an application and provide the reference number. You can do this here - https://www.gov.uk/overseas-passports.</p>
8.	<p>Written consent for any parent or legal guardian who cannot attend an interview at the consular or embassy.</p> <p>If only one of you is travelling to any in-person interview (if required), the other of you will need to provide your consent by completing this form https://www.gov.uk/government/publications/letter-of-consent-form-for-child-applying-for-an-emergency-travel-document.</p>
9.	<p>Change of name documents for you</p> <p>This is necessary if you have changed your name between your birth and your current passport, other than by marriage. You should provide any deed poll or change of name deed you have signed to change your name.</p>
10.	<p>Child's registration certificate</p> <p>This refers to your child's British nationality registration certificate and will not be applicable in most cases. It is a document which will be issued by the Home Office as part of the process, and reflects that your child was not born British but has been granted British nationality by the Home Office.</p> <p>Your child will need a registration certificate if:</p> <ul style="list-style-type: none"> • Your surrogate was married at the date of embryo transfer or the date of birth, or • The mother but not the father is British, or • The father is British by descent (i.e. he was born outside the UK to British parents) rather than having been born in the UK or naturalised as British. <p>In most Ukraine surrogacy cases the surrogate is unmarried and the biological father is British by birth or naturalisation. In such cases no registration certificate will be required.</p>
11.	<p>'Surrogacy papers' if your child was born to a surrogate</p> <p>No detail is given on the list being provided to parents, but here is what we suggest you try to provide on the basis of our long previous experience of making passport, nationality registration and ETD applications for surrogate children:</p> <ul style="list-style-type: none"> • Any surrogacy contract you signed with your agency/clinic • Surrogacy agreement with your surrogate (plus copy of your Power of Attorney if this was signed on your behalf) • Evidence of surrogate's marital status (if you cannot provide a document showing this, ask your surrogate to confirm her status in the consent she gives – see below) • Confirmation from your clinic confirming the circumstances of conception and your biological connection • Antenatal medical reports and scans from your clinic/hospital (any photographs you have during the pregnancy, or after the birth) • Surrogate consent – see below



	If it is not possible to provide any of these documents, we would suggest you explain why you cannot upfront to save time being asked for it once your application is reviewed.
12.	Identification documents for your surrogate A copy of her passport or ID
13.	Your contact details: Your full names Your current location (for arranging logistics of printing ETD) Your contact number Your home address
14.	Travel arrangements Mode of transport, transit countries, departure date, arrival date at destination, country of final destination – you will need to have some idea of how you plan to travel to answer this although this will be more flexible than usual.

This is a list of all the documents we expect you to be asked for, but there is flexibility given the circumstances (the most important documents will be some evidence of the birth, surrogate consent and evidence of your British nationality). We would suggest providing everything you can and giving a clear explanation as to why you cannot provide anything you don't have.

Surrogate consent for UK purposes

Consents signed by your surrogate for UK legal purposes should normally be translated and notarised, but we have been told there will be flexibility on this if necessary. If possible, it will be best to have something physically signed after the birth (even if this is handwritten). We would suggest the following wording.

I, [surrogate's full name], acted as the gestational surrogate for [Mother's full name] and [Father's full name]. Their child, [child's full name], was born on [date].

I confirm that I was unmarried at the date of conception and time of birth.

I confirm that I have given up parental responsibility and custody to [parents' full names].

I give my consent to the issue of a British nationality certificate, British passport and/or Emergency Travel Document for [child's name] and for him/her to be taken out of the country by [parents' names].

I consent to a parental order being made in respect of [child's name] in favour of [Mother's full name] and [Father's full name] so they are his/her parents under UK law. Although I understand this consent should be given six weeks after the birth, I am making my intention clear now due to the current circumstances in Ukraine.

Signed:
[SURROGATE'S FULL NAME]

Date:



Contact details for Embassies

<p>Ukraine</p> <p>British Embassy Kyiv The British Embassy in Kyiv has temporarily relocated to Lviv*</p> <p>Telephone +380 44 490 3660 +44 (0)1908 51 6666</p> <p>*Please note there are currently no consular services operating in Ukraine</p>	<p>Poland</p> <p>British Embassy Warsaw ul. Kawalerii 12 00-468 Warsaw mazowieckie Poland</p> <p>Telephone +48 22 311 00 00</p>	<p>Romania</p> <p>British Embassy Bucharest 24 Jules Michelet 010463 Bucharest Romania</p> <p>Telephone +40 (21) 201 7200 Consular enquiries +40 (21) 201 7351</p>
<p>Hungary</p> <p>British Embassy Budapest Budapest Füge utca 5-7 1022 Hungary</p> <p>Telephone +36 (1) 266 2888</p>	<p>Moldova</p> <p>British Embassy Chisinau 18 Nicolae Iorga Str. Chisinau MD-2012 Moldova</p> <p>Telephone (+373) (22) 225 902</p>	<p>We understand the email address for the ETD centre (which you will be provided once you are in touch) is etdcentre.fta@fcdo.gov.uk</p>

