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British Infertility Counselling Association



Journal of Fertility Counselling

► **BICA is a registered charity and the only professional association for infertility counsellors and counselling in the UK. Our aims are:**

- To ensure that those who seek the services of our members are making fully informed decisions in relation to their treatment and family building options
- To support our members in their practice and professional development through the provision of information, training, opportunities for networking and through an accreditation process that ensures high quality standards and ethical practice are evaluated, maintained and adhered to
- To safeguard the best interests of those who seek the services of our members, recognising the sensitivity and expertise required when working with people affected by infertility, secondary infertility and involuntary childlessness, many of whom face complex decisions related to alternative approaches to modern family creation such as donation, surrogacy and/or fertility preservation
- To inform and educate the wider public and our colleagues in the field of assisted conception about the psychological and social impact of infertility through the provision of training and information.

Editorial

Welcome to the spring edition of The Journal of Fertility Counselling. In this edition, we feature the latest news from your Executive Committee, as well as a range of updates on events and features which we hope you will find interesting and inspiring.

This edition has a focus on the Fertility Forum, an event which BICA has been supporting. It's a non-commercial evidence-based information day for patients with no sales and no promotions.

The day has been organised by all the professional bodies working in the field along with fertility patients. They highlighted the need for such a day as so many patients end up confused by the vast mass of information available online, which is often promoting a particular treatment or service. Patients can find it hard to make sense of the often contradictory advice they are given at an already challenging time. BICA will be running a quiet space at the event and will also be presenting



BICA members are urged to help to support this not-for-profit day which takes place at the RCOG in London on March 30 by ensuring that they spread the word to patients at their clinics and those they see privately.

Many thanks!

Kate Brian, March 2018

Legal issues for transgender and gender diverse patients

by Natalie Gamble

My colleague Sue Breen and I were delighted to speak at a recent BICA workshop on transgender issues, and had an engaging discussion with counsellors keen to get it right when working with transgender and gender diverse patients. For those not able to attend, here is a summary of what we talked about.

Language – why it matters

LGBT charity Stonewall has a very helpful glossary of terms (<https://www.stonewall.org.uk/help-advice/glossary-terms>), including transgender (which is an umbrella term for people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth), cisgender (essentially non-trans – so someone whose gender identity is the same as the sex they were assigned at birth) and non-binary (an umbrella term for people whose gender identity doesn't sit comfortably with either 'man' or 'woman').

If you are worried about getting it wrong, the most important lesson is to ask! It is good practice now to ask all your patients – routinely, at the outset – their preferred name and pronoun so that you do not make presumptions.

The Gender Recognition Act 2004

The GRA 2004 allows transgender people to apply for a Gender Recognition Certificate (GRC) in order to change the sex recorded on their birth certificate. The process is lengthy, involving an application to a gender recognition panel with evidence that the person has lived in their acquired gender for at least two years, medical evidence of gender dysphoria and, if they are married, evidence that their spouse consents.

There are many myths circulated about the GRA, but a trans person can change their name, appearance, passport and drivers' licence without a GRC. They can also access single-sex spaces like public toilets, changing rooms and women's refuges in the gender they identify. The only thing they cannot do without a GRC is to change their birth certificate, and many transgender people live happily in their identifying gender without bothering to apply.

The government is currently considering whether to update the law to introduce a simpler process of self-

identification to change a birth certificate (as currently exists for changing a passport and drivers' licence), which we wholeheartedly support. The current system is overly intrusive and complex, and no longer reflects modern understanding of transgender identities being a feature of personal identity rather than a mental health condition.

Fertility storage

Transgender patients are increasingly looking to the future, and many want to store eggs or sperm before going through a medical process involving hormone treatment and/or surgery which may impair their fertility.

Just like patients on the verge of cancer treatment, they have the right to preserve their fertility and to store eggs, sperm or embryos beyond the basic storage period of ten years. It is important that these rights are communicated clearly and correctly so that the renewals of storage are done correctly at the right time.

Legal parenthood

UK law does not currently make specific provision for transgender people who conceive children after changing gender, which means that the usual law applies in respect of whether someone is a 'mother', 'father' or 'parent'.

So if a trans person (born female) gives birth, he/they are a 'mother', even if not legally a woman.

If a trans person is the partner of the person giving birth, then there are a few different scenarios:

If a trans woman provides sperm to her partner, then she is her child's legal 'father', even if legally a woman.

If donor sperm is used, a trans partner can be nominated as the 'father' or 'parent' using the WP and PP Forms. The choice between the two parental titles will be in line with gender identity if the person being nominated as a father/parent has a GRC; if not, the position is uncertain but unless challenged it is likely they can choose.

If a surrogate carries a baby for a parent or parents who are trans, then the intended parents will ultimately be recorded on their birth certificate after the grant of a parental order by the family court. A post-parental order birth certificate always records the intended parents as 'parents' regardless of their gender.

As you can see, the rules on parental titles are complicated and, for transgender parents, do not always work as they should. There is currently a case going through the High Court challenging the law for a transgender father (legally a man) who has given birth and does not want to be registered as his child's mother. If that case is won, there may be law reform

on the horizon. What we need is specific provision for transgender parents, which allows them to register their children's births using the most appropriate parental title for them and their child.

Children disputes and the Family Court

As family lawyers, we see the longer term issues for parents and children too. Sadly there are cases where a parent who transitions is pushed out of the family. In a landmark judgment last year, the Court of Appeal ruled that a transgender woman who was the father of five children living in an orthodox Jewish community, and who had been denied all direct contact with her children after coming out as trans, should be allowed to see them.

The ruling was an important marker that, even where there are less accepting views of transgender identities within particular communities, UK law firmly protects the rights of children to have a relationship with both their parents, even if one of them happens to be trans. Transgender parents should therefore feel confident in the family court, if they need to make an application for contact with their children.

We also see cases involving transgender children, where parents disagree about whether they should be allowed to transition socially (children cannot access medical treatment to permanently transition in the UK until they reach adulthood). Such cases too can be emotional and hard-fought, but once again the family court will consider the child's welfare as its paramount consideration.

About the author: Natalie Gamble is known internationally, not only as the UK's leading fertility lawyer but also for her tenacity which has enabled much needed change in the UK legal system.

Having built her own donor-conceived family in 2001, Natalie was the first solicitor to pioneer fertility law in the UK.

She is founder of NGA Law, a specialist firm working at the cutting edge of modern family law.



Avalanche and Fertility Fest at the Barbican, London

27 April - 12 May 2019

Maxine Peake is to star in Julia Leigh's adaptation of her powerful memoir, *Avalanche: A Love Story*, at the Barbican from 27 April - 12 May.

A prolific theatre, television and film actress Maxine Peake's career highlights include *Black Mirror*, *Funny Cow*, *Red Riding*, *The Devil's Whore*, *The Theory of Everything*, *Peterloo*, *The Falling*, *Shameless* and an extensive list of dramas for the BBC including *The Village*, *Silk*, *Criminal Justice*, *Three Girls* and most recently, *The Bisexual*.

Constantly looking for new challenges and surprising audiences she has played a range of provocative and award-winning characters, notably the title role in *Hamlet* at the Manchester Royal Exchange.

As a writer, she has retold fascinating stories of women in British history who achieved greatness, or faced adversity, through her plays, *Beryl*, *The Last Testament of Lillian Bilocca* and *Queens of the Coal Age*.

Avalanche: A Love Story marks her debut at the Barbican Theatre.

When a woman rekindles an early love in her late thirties, her whole life changes. Deeply in love, she and her new husband decide they want to have a child together and, like countless other couples, they make a visit to the IVF clinic, full of optimism.

So begins a long and costly journey of medical procedures, nightly injections, rituals and the oscillation between high hope and the depths of despair.

Avalanche lays bare the stark truth of one woman's experience of the seductive promises made by the multi-billion-dollar IVF industry to those in the grip of a "snow blind" yearning and desire to make a baby.

The devastating toll on her body, her relationships and her career as an author/filmmaker, are portrayed with compelling honesty and moments of black humour. At the heart of this dramatisation is an exploration of who we are and how we love - the potent power of the desire for family and future. Inspired by Leigh's story, it is a courageous and ultimately wise account of a profoundly important and widespread experience.