



By Natalie Gamble

RAINBOW CONNECTIONS

HOW TO BUILD STRONG FOUNDATIONS FOR CO-PARENTING AND KNOWN DONATION

Co-parenting and known donation are increasingly popular ways of building a family, particularly for same-sex and single parents. Some people come together via friends and family, others via online matching sites (such as prideangel.com), with a view to collaborating to conceive a child within a platonic relationship.

Where they work well, they can be wonderful arrangements for all involved. The child has the benefit of relationships with extra parents or role models, and there is no mystery about his or her biological origins. The adults have the opportunity to achieve a much-wanted family, and in some cases to share the responsibilities of parenting if that is what they want.

But successful arrangements need careful set up since 'known donation' and 'co-parenting' are a spectrum rather than clear categories. At one end, there are donors who have a loose link with the child, at the other there are co-parents who are fully involved in shared parenting, with the overwhelming majority of families falling

somewhere in between. Anyone considering known donation or co-parenting should think of it as a rainbow of options, in which the colours blend from one to the next without clear boundaries.

And that, while creating enormous opportunities for bespoke family set-ups, can also create a recipe for complication and misunderstanding. Sadly, disputes are not uncommon within families conceived in this way. Typically, problems arise about how much time those involved spend with the child (and what kind of contact they have) and who has responsibility for decision-making. Issues of status and hierarchy are common battlegrounds, sometimes causing bitter legal battles which continue for years, ultimately to the detriment of the children everyone sought to conceive.

But a lot can be done to prevent that from happening. Disputes are very often a product of an underlying mismatch of expectations that is there right from the start, and if so they are avoidable.

So, having seen the good and the bad, here are our top tips for building your family through known donation and co-parenting:

1. Talk, talk, talk – and more importantly listen, listen, listen

If you are planning a known donation or co-parenting arrangement, be honest about what you want, and listen – really listen – to what your recipient, donor or co-parent wants. If you want different things, put the brakes on and perhaps consider finding someone else who is more like-minded about the family you want to create.

Be careful that your enthusiasm to conceive does not outpace the discussions you need to have. We always encourage people to focus on the fundamentals in those discussions. The key question is how you will all fit together. Will

you be equal parents or primary and secondary parents, or will one or more of you be something significant but less than a parent? Language can be misconstrued, so be careful to be clear what you mean if you use generalities like ‘uncle figure’ or ‘role model’.

Getting these basic foundations clear will help the rest of the detail to flow. Do talk through practical details like what you will be called, what days/times the child will spend with who, parenting styles, finances, how other family members will be involved and known etc. But don’t skip straight to the detail without having resolved the basic framework first – if you do your arrangement may appear solid but in fact have shaky foundations.

2. Put things in writing

We often get approached by people who want to put a legal agreement in place to ‘protect them’, whether from financial responsibility or to safeguard their parental rights. It is important to understand that pre-conception agreements are not legally binding in the UK. At most, a written agreement will be taken into account by the family court if there is a dispute at a later stage about arrangements for the child, but the court’s priority will be deciding what is best for your child at the time, not what the adults agreed before they were born.

Nonetheless, written agreements have enormous value. The process of putting things in writing creates clarity. Channelling people to crystallise their thoughts in black and white flushes out areas of possible divergence so they can be addressed properly. It is the process which has the value.

With that in mind, finding a standardised ‘donor’ or ‘co-parenting’ agreement from the Internet which you do not adapt to your situation will not meet your needs. A written agreement only has value if it captures your wishes and has been consciously prepared. We provide template pre-conception agreements for those wanting to put things in writing themselves, which encourage discussion and personalisation, as well as helping you record the law and the facts. We also prepare bespoke written agreements for those who want to do things more thoroughly, each personally drafted and unique to the particular circumstances after a careful process of discussion, advice and negotiation.

3. Understand the law

The law on known donation and co-parenting is often more complicated than people realise. In the UK, those involved in the conception do not have the flexibility to decide what goes on the birth certificate and what status everyone has. That may come in the future (in other parts of the world it is already possible to name more than two parents on a child’s birth certificate) but at present, there are no plans to update the law in the UK.

For the time being, a child can only have two legal parents. The woman who gives birth is always the legal mother. Who is the other legal parent – which dictates financial responsibility among other things – depends on whether she is married or in a civil partnership when she conceives, and the circumstances of conception. The law might make the mother’s partner or the biological father the other legal parent, regardless of what the adults have agreed. To add another layer of complication, who has parental responsibility (the right to be involved in decision-making for the child) is a separate question, dictated in part by the birth certificate but also other steps the adults may choose to take.

It is important for you to understand how the law applies in your particular circumstances – what will go on the birth certificate, who will have parental responsibility and who will be financially responsible – since confusion over these issues is an obvious potential trigger for problems. For example, if a child is conceived by a married same-sex couple, any plan to register an involved father on the birth

4. Get professional help

Involving an experienced professional with an objective eye can help you reality-check your discussions. This may be through legal advice or mediation.

As lawyers, we have for many years helped those going into co-parenting and known donation arrangements, advising one side or the other about the law and representing them in the negotiation of a written agreement (as well as sharing our experience of what happens in court if things go wrong). While that remains important work, we are now also offering a new service to support people building families.

Mediation is ideally suited to supporting family building since, unlike legal advice, it involves everyone. Modern Family Mediation modernfamilymediation.co.uk launching soon, as the first mediation practice in the UK to specialise in helping to create modern families (as well as to help untangle financial, children and fertility issues if problems or disputes arise). Our qualified mediators speak to each adult individually and then sit down with you all, in

one room, to facilitate your discussion and help you reach your own agreement. The mediator plays an active but impartial role, challenging the language you use, questioning your thinking, making sure you air how you really feel and that you hear each other, and guiding you on the framework of issues you need to work through. He or she can also provide general information (although not advice) about the law and can put together a memorandum of understanding which records what you have agreed in writing.

It is a very positive way of supporting those going into known donation and co-parenting arrangements, setting the right foundations and ensuring that you are all pulling in the same direction and working together. We certainly hope that it will help many more ‘rainbow families’ to lay the strongest possible foundations for successful long-term family arrangements.



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