

BECOMING OR USING A SURROGATE

Planning for a pregnancy utilising surrogacy will have significant implications for all parties involved and should be a considered and informed decision.

This booklet provides the necessary information to assist commissioning parent(s) and the surrogate and her family to make an informed decision in regard to their treatment.

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MelbourneIVF
A member of Virtus Health

This booklet outlines the Melbourne IVF surrogacy program, including the application process, medical treatment, your legal rights and responsibilities, and the psychological and social implications, as well as other important considerations. Additional information regarding donor programs and IVF treatment can be provided as required.

Melbourne IVF's Surrogacy Program Administrator is your main point of contact who will provide information and guidance on the procedures and processes involved in the surrogacy program. We encourage you to contact the Program Administrator at any stage by phoning 03 9473 4611 or emailing surrogacy@mivf.com.au

What is surrogacy?

The word 'surrogate' is derived from Latin and means 'elect as a substitute'.

A surrogate or gestational carrier is a woman who carries a child with the intention of giving that child to the commissioning parent(s) when the child is born. The legal process in Victoria and used at Melbourne IVF is known as 'gestational surrogacy' where an embryo (created using gametes produced by the commissioning parent(s) or donors) is transferred into the surrogate's uterus; therefore the surrogate has no genetic link to the child. Under current Victorian legislation the surrogate's eggs (traditional surrogacy) cannot be used in the conception of the child.

The embryo transferred into the surrogate is formed using assisted reproductive treatment procedures.

The Melbourne IVF surrogacy program is guided by the legislative requirements under The Assisted Reproductive Treatment Act 2008 (Part 4.). According to the legislation; 'An ART (Assisted Reproductive Technology) provider (such as Melbourne IVF) may carry out a treatment procedure on a woman under a surrogacy arrangement only if the surrogacy arrangement has been approved by the Patient Review Panel'. The Patient Review Panel is a Victorian panel that consists of up to five members appointed by the Governor on the recommendation of the Minister for Health. Under the Act a surrogacy arrangement is defined as follows:

An arrangement, agreement or understanding, whether formal or informal, under which a woman agrees with another person(s) to become or try to become pregnant, with the intention:

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- That the child born as a result of the pregnancy is to be treated as the child of another person or persons (whether by adoption, agreement or otherwise); or
 - Of transferring custody or guardianship in a child born as a result of the pregnancy to another person or persons; or
 - The right to care for a child born as a result of the pregnancy is permanently surrendered to another person or persons.
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Who is eligible to commission a surrogate for childbirth?

- (a) Under Victorian law a person is eligible to commission a surrogate if they are:
- Unlikely to become pregnant
 - Unlikely to be able to carry a child or give birth
 - Likely to place her life/health or that of the baby at risk should she become pregnant, carry the baby or give birth.
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- (b) Melbourne IVF medical guidelines on when a surrogacy arrangement may be appropriate include:
- Absence of the uterus
 - Anatomical abnormality of the uterus preventing safe carriage of pregnancy
 - Other medical conditions which make pregnancy too risky for the mother or the foetus
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- (c) Under Melbourne IVF clinical guidelines the commissioning woman may use her own eggs until her 46th birthday, if medically appropriate. If using donor eggs or embryos, the upper age limit for treatment is the commissioning parent's 51st birthday.
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- (d) The commissioning parent(s) must find their own surrogate and it is illegal to advertise for someone to act as a surrogate.
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- (e) Under current Victorian legislation all parties to the surrogacy arrangement must undergo a Criminal Records check (to be sighted by the Melbourne IVF counsellor providing counselling) and consent to a Child Protection Order check. These checks must be available by the 2nd counselling appointment. Further information regarding these checks will be provided to you by a Melbourne IVF Patient Liaison Administrator.
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Who is eligible to be a surrogate?

- (a) Under Victorian law, the surrogate must satisfy the following requirements for approval by the Patient Review Panel:
- The surrogate must have previously carried a child and given birth to a live child.
 - The surrogate must be at least 25 years of age.
 - The surrogate's eggs must not be used in the conception of the child.
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- (b) Under current legislation all parties to the surrogacy arrangement must undergo a Criminal Records check (to be sighted by the counsellor providing counselling) and consent to a Child Protection Order check.
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- (c) It is illegal for a woman to advertise that she is willing to act as a surrogate mother.
- Under Melbourne IVF clinical guidelines the upper recommended age limit for the intended surrogate is 40 years of age.
 - Under Melbourne IVF clinical guidelines only one embryo will be transferred into a surrogate at any given time.
 - Under Melbourne IVF clinical guidelines it is highly recommended that the surrogate has completed her own family.
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Satisfying the above eligibility requirements does not guarantee Patient Review Panel approval for a surrogacy arrangement to proceed.

Beginning the process

In order to begin the process to make an application for a surrogacy arrangement, you will need to attend the following appointments in this sequence, prior to making an application to the Patient Review Panel. A description of what to expect at each appointment is provided below.

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| Medical Review | Commissioning couple & surrogate referred to Melbourne IVF fertility specialist for medical review |
| Obstetrics Assessment | Surrogate only to have independent obstetrician medical assessment |
| Melbourne IVF Surrogacy Review Panel | Melbourne IVF Surrogacy Review Panel considers referral from a MIVF fertility specialist and obstetric assessment to ensure that the legal requirements and Melbourne IVF guidelines are met for eligibility to proceed with the arrangement. Initial Counselling Stage |
| Initial Counselling Stage | Separate appointments with the same counsellor Consider and understand the issues, implications and challenges associated with surrogacy. <ul style="list-style-type: none"> • Surrogate (& partner) attends counselling appointment • Commissioning parent(s) attend counselling appointment |
| Independent Psychological Assessment | Appointments scheduled over period of 6 weeks |
| Second Counselling Stage (separate appointments) | Review and discuss issues raised, provide opportunity to ask questions, ensure all implications of the surrogacy arrangements are discussed. <ul style="list-style-type: none"> • Surrogate (& partner) attends counselling appointment • Commissioning parent(s) attend counselling appointment |
| Joint Counselling | Combined counselling appointment with Surrogate (& partner) and Commissioning parent(s) |
| Independent Legal Advice | <ul style="list-style-type: none"> • Commissioning parent/s seek independent legal advice • Surrogate & partner (if applicable) seek independent legal advice |
| Third Counselling Stage | Review legal advice and any outstanding issues, and ensure all parties agreeable to proceeding prior to applying to the Patient Review Panel. <ul style="list-style-type: none"> • Surrogate (& partner) attends counselling appointment. • Commissioning parent(s) attend counselling appointment |
| Nursing Appointment | A nursing session will be held with the Surrogacy Program Nurse. This appointment is for the surrogate to have an understanding of the treatment. The commissioning parent(s) may also attend. |
| Patient Review Panel Application | Application made to the Patient Review Panel in order for a hearing date to be set. Patient Review Panel provides written decision to applicant within 14 days of the hearing. |
| Final Counselling | Final counselling session and signing of consents prior to the surrogacy treatment process commencing |

Referral

The commissioning parent(s) will require a referral from their General Practitioner or other medical specialist to a Melbourne IVF fertility specialist in order to determine eligibility for the Melbourne IVF surrogacy program.

Once the commissioning parent(s) have been medically assessed by their Melbourne IVF fertility specialist, the surrogate will be asked to schedule an appointment for review with the same specialist. The Surrogate will also require a referral from a General Practitioner or other medical specialist to see the Melbourne IVF fertility specialist.

The fertility specialist will obtain a medical history from the surrogate and refer her to an independent obstetrician for further gynecological/obstetric assessment. The independent specialist obstetrician's assessment report will assist in determining suitability to be a surrogate.

A written referral and request outlining the suitability for surrogacy from the Melbourne IVF fertility specialist, accompanied by the obstetrician's report will be forwarded to the Melbourne IVF Surrogacy Review Panel.

Melbourne IVF Surrogacy Review Panel

The Melbourne IVF Surrogacy Review Panel meets every 2nd month, to consider the referrals from Melbourne IVF fertility specialists. The panel comprises Melbourne IVF's Medical Director, Melbourne IVF Fertility Specialists, Counselling Manager, Counsellors, Surrogacy Program Manager and Nurses. Every potential surrogacy arrangement requires consideration by this panel to ensure eligibility criteria are met prior to commencing the Melbourne IVF surrogacy application process. The commissioning parent(s) and their fertility specialist will be notified of the panel's decision.

Once confirmation of Melbourne IVF's ability to support the surrogacy arrangement process has been received, the Program Administrator will assist with scheduling the necessary appointments.

Counselling process

Before an application can be made to the PRP for approval it is a legislative requirement that both the commissioning parent(s) and the surrogate (and her partner) have counselling and independent psychological assessment. All parties will be required to attend counselling at different stages throughout the surrogacy process.

Surrogacy may be extremely emotionally and psychologically challenging for both the commissioning parent(s) and the surrogate (and her partner), and counselling is an integral part of supporting you through this process.

Initial counselling stage

Counselling appointments for all parties provide an important opportunity to consider and understand the issues, implications and challenges associated with their decision to proceed with a surrogacy arrangement. This is to ensure that all parties to the surrogacy arrangement are making informed and consensual decisions to proceed.

The commissioning parent(s) and the potential surrogate will have separate counselling appointments, with the same counsellor. All parties must arrange for independent psychological assessments to occur after this appointment.

Financial implications

The commissioning parent(s) will be required to schedule an appointment with the Melbourne IVF Patient Liaison Administrators (PLA) to discuss the fees associated with the surrogacy program. This appointment should be scheduled to coincide with the first counselling appointment to discuss the administration management and treatment costs.

It is important that the commissioning parent(s) and their surrogate discuss expenses at the outset. Generally the commissioning parent(s) are responsible for costs incurred.

Possible expenses include: medical expenses associated with presenting for medical treatment; initial reports and counselling costs; life-insurance for the surrogate during pregnancy and any other legal costs; IVF, embryo storage and embryo transfer expenses; medical and other expenses associated with the pregnancy and birth; and legal costs associated with application for a Parentage Order.

Medicare does not cover cost for any surrogacy program treatment procedures.

Second counselling stage

After the psychological assessment appointments have been completed, all parties to the surrogacy arrangement require further counselling with their Melbourne IVF counsellor. This is to review and discuss any issues raised, provides a further opportunity to ask questions, and to ensure all the implications of the surrogacy arrangement are discussed. A joint counselling session may be arranged at this stage.

Following these counselling sessions parties must arrange to obtain independent legal advice prior to the next counselling stage. For further information regarding legal advice please refer to the legal section below.

Third counselling stage

After you have obtained legal advice, all parties will be required to meet with the counsellor to review. This is to ensure that there are no outstanding issues and all parties are agreeable to proceeding with the arrangement prior to applying to the Patient Review Panel.

Independent psychological assessment

The commissioning parent(s) and surrogate and her partner (if applicable) will be required to attend appointments with an independent psychologist for an assessment. The assessment need not duplicate the prescribed counselling requirements. The assessment should focus on:

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- The individuals' psychological preparedness for the arrangement
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- The implications of the arrangement between the couples, respective partners and any existing children
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- Any concerns about the parties' ability to provide informed consent to the arrangement
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- Any concerns about the parties' psychopathology that may impact upon the arrangement

On completion of these appointments the psychologist will provide a written report outlining the psychological assessment of the parties to the arrangement.

Independent legal advice

The commissioning parent(s) and surrogate and her partner (if applicable) will be required to schedule separate appointments to obtain independent legal advice. The commissioning parent(s) and surrogate must obtain advice from separate legal advisors.

This advice should be from lawyers experienced in family law who will provide a written report which will be reviewed by the Patient Review Panel advising that the following matters have been discussed:

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- Parentage Orders and family law considerations pertaining to surrogacy arrangements
 - Legal rights and responsibilities if the surrogate refuses to relinquish the child or the commissioning parent(s) are unwilling to take the child
 - Clear definitions of financial obligations for medical and other expenses and insurance or compensation arrangements in the event of death or disability on the part of the surrogate
 - Decisions regarding medical complications of pregnancy/life insurance for surrogate
 - The legal status of the child when born and the responsibility for medical decisions in regard to the child prior to the parentage order being made
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The Melbourne IVF surrogacy program administrator will provide you with a list of recommended psychologists and legal advisors. All associated fees for independent psychological and legal appointments are the responsibility of the commissioning parent(s).

Patient Review Panel Application

The Patient Review Panel requires application forms to be completed by the surrogate and the commissioning parent/s in order for a hearing date to be set. You may obtain these forms from the Melbourne IVF Surrogacy Program Administrator or print them from the Patient Review Panel website (listed at the back of this booklet). As well as the application form you will need to provide the Patient Review Panel with certified copies of the following documentation:

- Criminal Records Check
- Child Protection Order Check
- Proof of age of the surrogate mother (e.g. passport, driver's licence, birth certificate)
- Birth certificates of surrogate mother's children
- Counselling Report
- Psychological Assessment Report
- Legal Report
- Supporting medical documentation

Melbourne IVF may assist with the completion of these forms, however is not able to complete the forms on the behalf of the surrogate or commissioning parent(s).

On receiving the application forms and necessary documentation the Patient Review Panel will contact the surrogate and commissioning parent/s advising of the application hearing date. The Patient Review Panel must provide its written decision to the applicants within 14 days of the hearing.

Further information regarding the application and the hearing process may be found on the Patient Review Panel website.

Proceeding with a surrogacy arrangement

Final counselling stage

If approval from the Patient Review Panel is granted, a further counselling session for all parties to the surrogacy arrangement with their Melbourne IVF counsellor will be required. If all parties are agreeable to proceeding, consent forms will then be signed.

Nurse information session

The commissioning woman and the surrogate are required to attend a Melbourne IVF nurse information session. It is recommended that partners attend this session, however it is not compulsory. During this session the nurse will explain the following:

- The treatment cycle for the surrogate
 - The function and administration of medications used during the various stages of the treatment cycles
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Medical treatment procedures: screening blood tests

The surrogacy nurse will contact all parties in the surrogacy arrangement at the beginning of the counselling process to organise the required screening blood tests. These tests will include: HIV, Hepatitis B & C, syphilis, Cytomegalovirus, Human T-Lymphotropic Virus 1&2, Blood Group, & Full Blood Count. The Surrogate will also require testing for Rubella and varicella. The commissioning couple will also require genetic testing, and post quarantine blood tests, at least 3 months after embryo creation.

When all blood test results are received and cleared by the Surrogacy Program Melbourne IVF specialist, the embryo(s) will be available for transfer to the surrogate.

Quarantine periods

Melbourne IVF requires all embryos that will be used in a surrogacy arrangement to be quarantined for a minimum of three months. The egg and sperm providers will need to complete an infectious diseases screening blood test prior to embryo creation and will need to repeat this test after the end of quarantine period.

Treatment information for the surrogate

Once the embryo(s) are available for use following the quarantine period, and PRP approval has been granted, you may commence treatment. You will undertake a thaw cycle, whereby a stored frozen embryo is thawed and transferred into your uterus.

You will be required to have an infectious diseases screening blood test, and pregnancy test on day 1 of the treatment cycle. It is also essential that you have protected intercourse from day 1 of this cycle (if appropriate).

The type of thaw cycle undertaken will depend on whether or not you ovulate naturally and have regular periods. If so, the type of cycle is commonly known as a natural thaw cycle. No medication is necessary for this cycle, ovulation is tracked through ultrasound scans, urine test kits and if necessary blood tests. Once a surge in ovulatory hormones is detected, you will be scheduled for embryo transfer two to five days later.

If you do not ovulate naturally or have irregular periods, the type of cycle that will be undertaken is known as an artificial thaw cycle. You will be commenced on Progynova tablets (oestrogen hormone replacement) which are used to build up the lining of the uterus in readiness for embryo transfer. It is usually taken twice a day: however the dose may vary depending on your fertility specialist's orders.

Between 7–14 days of taking this medication you will have an ultrasound scan to measure the lining of your uterus. If it is not thick enough the progynova dose may be increased and another scan will be undertaken several days later. Once the fertility specialist determines the lining is of appropriate thickness (greater than 7 mm), you will be advised to commence progesterone pessaries two to five days prior to embryo transfer. Progesterone pessaries assist in maintaining the lining of the uterus in conjunction with Progynova. Once these medications have been commenced they must be continued until the day of the pregnancy test.

Common side effects of medication

- headache

- nausea

- weight gain

- breast tenderness

The embryo transfer (ET) procedure is similar to a pap smear and takes approximately 10 minutes.

The embryo is drawn up into a fine catheter. The catheter is inserted through the cervix into the uterus, where the embryo is expelled. This is not a painful procedure and resting after embryo transfer is not required.

A blood test is undertaken 11–14 days after embryo transfer. If pregnancy is achieved, surrogates who are taking progesterone pessaries and Progynova tablets need to continue taking these until 8–12 weeks of pregnancy whilst the placenta is forming and begins to function. Your fertility specialist will advise when to stop taking this medication.

It is possible that the first embryo transfer will be successful; however subsequent embryo transfers may be required before a pregnancy occurs. This may involve further embryo transfer (thaw) cycles from stored embryos.

Please note that cycles may vary from that stated. Further detailed information will be provided during the nursing information session.

Surrogacy arrangements and the use of donor gametes or embryos

The embryo for a surrogacy arrangement may not always be formed from the gametes (egg and sperm) of the commissioning parent(s). The embryo may be formed from a number of biological sources including:

- The commissioning woman and a sperm donor – the egg is retrieved and fertilised with donor sperm
 - An egg donor and the commissioning man – the egg is donated by a woman who is not the surrogate and fertilised with the commissioning man's sperm
 - Neither commissioning parent – the surrogate is implanted with a donated embryo
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It is important to note that Surrogacy Review Committee approval is required prior to the creation of embryos for a surrogacy arrangement.

Information regarding Melbourne IVF's donor programs is available in separate booklets.

Substitute parentage orders

The commissioning parent(s) of a child born under a surrogacy arrangement may apply to the court (County or Supreme) for a substitute parentage order. This application must be made between 28 days and 6 months after the birth of the child. The court requires the commissioning parent(s) to file a certified copy of the child's birth certificate prior to hearing the application.

Under the Status of Children Act 1974, the court may make a substitute parentage order in favour of the commissioning parent(s) if it is satisfied that:

- (a) Making the order is in the best interests of the child.
- (b) The surrogacy arrangement was commissioned with the assistance of a registered ART provider; the Patient Review Panel approved the surrogacy arrangement before the arrangement was entered into.
- (c) The child was living with the commissioning parents at the time the application was made.
- (d) The surrogate and partner (if applicable) have not received any material benefit or advantage from the surrogacy arrangement.
- (e) The surrogate freely consents to the making of the order.
- (f) If the partner of the surrogate is party to the surrogacy arrangement, that her partner consents to the making of the order.

Issues for important consideration and discussion

It is important to consider carefully the following issues as these will be explored in medical, counselling, psychological and legal sessions.

Issues the commissioning parents should consider

Psychological issues

- How have you come to the decision to use a surrogate?
- How the surrogacy arrangement may impact on your relationship with your surrogate (and her partner and family)?
- Who are your support people?
- How to manage reactions of others?
- Pregnancy and birth plan
- Impact of an unsuccessful outcome
- How you will cope if the surrogate refuses to relinquish the child?

Medical issues

- The potential physical risks to the surrogate
- Management of medical complications during pregnancy or birth
- Attitudes toward antenatal testing, multiple pregnancy
- Dealing with abnormalities diagnosed either before or after birth

Legal issues

- Seeking legal advice, having a written legal agreement and dealing with limitations to agreements
- Responsibility for medical decisions in regard to the child prior to the court making a parentage order
- The financial implications of surrogacy given commissioning parent(s) responsibility for all expenses and Melbourne IVF costs
- Insurance and compensation arrangements in the event of death or disability on the part of the surrogate
- Your legal position if the surrogate refuses to relinquish the child

Issues the surrogate should consider

Psychological issues

- Understanding your motivation for being a surrogate
- How the surrogacy arrangement might impact on your relationship with the commissioning couple?
- Who are your support people?
- The impact on yourself, your family and significant others,
- Implications for your children
- Pregnancy and birth plan
- Impact of an unsuccessful outcome
- How you will cope if the commissioning parent(s) refuse to take the child?

Medical issues

- Awareness of potential physical risks and management of medical complications
- Attitudes to antenatal testing, multiple pregnancy
- Dealing with abnormalities diagnosed before or after birth
- Lifestyle issues that could affect surrogate's health such as smoking, diet and alcohol

Legal issues

- Responsibility for medical decisions in regard to the child prior to court making the parentage order
- The possibility that the commissioning parents separate or are unwilling to take the child?
- The possibility that one or both of the commissioning couple dies
- The possibility that the court doesn't allow the expected Parentage Order?
- Insurance and compensation arrangements in the event of death or disability on the part of the surrogate as a result of the pregnancy.

Checklists

Commissioning parent(s)

- Referral from GP to Melbourne IVF Specialist and medical review by Melbourne IVF fertility specialist
- Contacted with Surrogacy Administrator to explain process
- Apply for Child Protection Order Check
- Apply for Criminal Record Check
- Schedule initial counselling session to coincide with the surrogates
- Schedule Patient Liaison Administrator appointment to discuss fees associated with the Melbourne IVF surrogacy program
- Schedule appointment with independent psychologist for assessment
Schedule second counselling session
- Schedule appointment with independent legal advisor to discuss implications of surrogacy arrangement
- Schedule third counselling session to coincide with surrogate's
- Apply to Patient Review Panel for approval
- Schedule final counselling session to sign consents
- Schedule nursing information session if possible on the same day as final counselling session. Commissioning parent(s) and surrogate are required to attend this session together to discuss cycle in detail prior to commencing treatment.

Surrogate

- Referral from GP to Melbourne IVF Specialist and medical review by Melbourne IVF fertility specialist
- Schedule appointment with obstetrician for medical assessment
- Contact with Surrogacy Administrator to explain process
- Apply for Child Protection Order Check
- Apply for Criminal Record Check
- Schedule initial counselling session to coincide with commissioning parent(s)
- Schedule appointment with independent psychologist for assessment
- Provide the Surrogacy Administrator with a certified copy of proof of age
- Provide the Surrogacy Administrator with certified copies of surrogate's children's birth certificates
- Schedule second counselling session
- Schedule appointment with independent legal advisor to discuss implications of surrogacy arrangement
- Schedule third counselling session to coincide with commissioning parent(s)
- Patient Review Panel approval
- Schedule final counselling session to sign consents
- Schedule nursing information session, if possible on the same day as final counselling appointment. Commissioning parent(s) and surrogate are required to attend this session together to discuss cycle in detail prior to commencing treatment.

Glossary of terms

Child protection order check

Check carried out by Government department responsible for providing child protection services to prepare a statement that includes details of whether an order has been made removing a child from a person's custody or guardianship and if so details of that order.

Commissioning parent

The person(s) who enter into a surrogacy arrangement for a woman to carry a child on behalf of the person(s).

Criminal records check

Statement prepared by member of the Police force specifying that the member has checked records kept by police to determine whether the person has a criminal record and details of any convictions, findings of guilt with or without conviction, any outstanding charges and any other relevant matters.

Gametes

Sperm or oocyte (egg)

Partner

Person's spouse or person who lives with the 1st person as a couple in a genuine domestic basis irrespective of gender.

Gestational surrogacy

Where a woman agrees to carry a pregnancy for another person/couple and has no biological connection to the baby.

Surrogacy arrangement

Arrangement, agreement or understanding whether formal or informal under which a woman agrees with another to try and become pregnant.

Traditional surrogacy

A woman agrees to carry a pregnancy for another person/couple where her own eggs are used in the conception of the pregnancy.

Contacts and resources

| RESOURCE | TELEPHONE | DETAILS |
|---|--------------|---|
| Melbourne IVF | 03 9473 4444 | mivf.com.au |
| Surrogacy Program Registered Nurse | 03 9473 4594 | surrogacy@mivf.com.au |
| Counsellors | 03 9473 4444 | |
| Nurses | 03 9473 4444 | |
| Patient Liaison Team Administration | 03 9473 4444 | |
| VARTA – Victorian Assisted Reproductive Treatment Authority | 03 8601 5250 | varta.org.au |
| BDM Births, Deaths and Marriages | 1300 369 367 | bdm.vic.gov.au |
| Donor Conception Network | | enquiries@dcnetwork.org dcnetwork.org |
| Patient Review Panel | 03 9096 2806 | health.vic.gov.au/ hospitals-and-health- services/patient-care/ perinatal-reproductive/ assisted-reproduction/ patient-review-panel |



mivf.com.au | 1800 111 IVF