

PQ v RS & Others (Legal Parenthood: Written Consent)

[2019] EWFC 65

12/11/2019

Barristers

Dorothea Gartland KC
Ruth Kirby KC

Practice Areas

Private Children Law

In this case the court granted a declaration of parentage to the applicant and dismissed the application by the mother for a declaration of non-parentage. The case is another example of the difficulties that have arisen with completion of forms with fertility clinics since the introduction of the HFEA 2008 which were comprehensively dealt with by the former President of the Family Division in Re HFEA 2008 (Re A and others) Legal Parenthood; Written consents [2015] EWHC 2602 (Fam).

There was agreement between the parties that prior to undertaking the successful fertility treatment the Mother and her partner had both signed the necessary consent forms and the children were born in 2013.

The couple then married in 2014 but separated in 2017. The applicant issued a child arrangements application in late 2017 seeking to spend time with the children and those proceedings are ongoing.

The application for a declaration of parentage was issued in 2019 and the Court directed the children should be separately represented by an experienced Cafcass Guardian who has considerable experience of these applications and who supported the making of a declaration at the final hearing.

The Court considered that as the Mother had not raised any issue amounting to a breach of public policy under s.58 of the FLA 1996, allegations concerning the applicant's conduct should not prevent the court employing the equitable remedy of rectification to correct the errors in the consent form signed by the applicant.